AMERICAN ORATIONS

STUDIES IN AMERICAN POLITICAL HISTORY

EDITED WITH INTRODUCTION BY

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FIFTH EDITION

WITH INTRODUCTION BY

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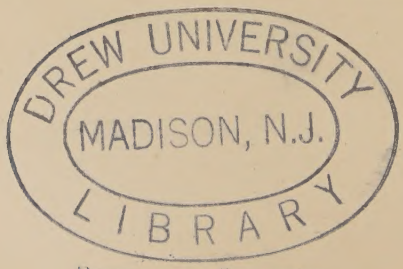

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INTRODUCTION TO THE FIFTH EDITION

DURING the past few years, there has been a noteworthy increase in the attention given to the study of American History and particularly of American Constitutional History, not only in the colleges and schools, but in the home circles of thoughtful patriotic citizens.

The study of the Constitution has, at the instance of the National Security League, been made obligatory in the public schools and institutions of more than two-thirds of the states, and the other states will doubtless follow in the near future, with instructions to the teachers in all state institutions to direct their students to an understanding of the foundation of the American Republic.

One result of more intelligent study given to American history has been the revision of certain of the text-books, many of which, though brought into print at later periods, had simply repeated inaccurate statements and unwarranted conclusions which had found place in

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164242

the earlier histories. No history written immediately after a great conflict, when the writer has not the full information on the causes of the conflict, or on the things that have happened during a period of war, and when his work has been done under the influence of the heat of the struggle, can be accepted by later generations as trustworthy in its conclusions, or even in the record of facts.

Under the suggestions of a Committee that was instituted some years back, the larger publishing houses have brought about an important revision in the text of the American History books on their list, the purpose being to shape the narrative so that it should represent not the passion of the moment, but an historic point of view. It is all important for the education of our citizens that the histories from which they secure their education as citizens, and particularly the history of their own country, should present an impartial account of men and of events.

Instructors are now emphasizing with their students that the mere memorizing of dates is not studying history. A date is of importance only as a means of comparing one event with another, the action of one leader, or group of leaders, with the actions of his contemporaries,

and of ascertaining as far as possible the influence of one group of leaders, or one set of actions, upon the others. A student is advised to investigate the causation of events and to try to ascertain the relations of events to each other. A trustworthy historian does what he believes to be practicable to find out how certain opinions, more or less general, came into being and either developed into national policies, or, after being subjected to the test of public discussion, disappeared into innocuous desuetude. For this purpose, the historian makes study, as far as the material is available, of the shifting conditions of public opinion at the time when some great issue was under consideration, or was brought to a decision.

Some years back, a plan took shape with Major Putnam and Professor Johnston, of Princeton University, for utilizing a selection of the most noteworthy speeches of congressmen and of other political leaders, in order to arrive at an understanding of the arguments presented on either side of a political contest, and also to secure an impression of the state of public opinion of the time. The speaker who attempts to influence his fellow citizens is likely to make an expression of the feeling of these citizens as far as he understands this feeling.

It was realized that there was already in print a sufficient number of collections of speeches prepared simply as examples of eloquence, and for use as guides for would-be orators. The selection of speeches for the "American Orations" was made with an entirely different purpose. The addresses here brought together, while in not a few cases presenting examples of the highest oratory, have been selected with reference to the value of the reasoning and arguments contained in the speeches, and, as said, as examples also of the feeling at the time either in Congress or throughout the country. The editors have brought together the speeches which, in their judgment, presented the best arguments on either side of the issue which was under discussion. For Colonial times, the discussion turned on the constitutional issues with Great Britain and for an understanding of these issues the words spoken at the time by such leaders of public opinion as James Otis, Patrick Henry, and Samuel Adams bring back to us the problems of the men who founded the Republic and give us an understanding of the methods by which the solution of these contests was undertaken.

The long series of issues that were under discussion in the Constitutional Convention of

1787 are presented to us in the addresses of the leaders who had the chief responsibility for the shaping of the Constitution. The reader is brought to an understanding of the point of view of Virginia and of Massachusetts, of the men under the lead of Thomas Jefferson, who were planning to organize a federation of independent states, and of the leaders who, like Hamilton and Washington, were contending for measures which would bring into existence a nation. Fortunately for the United States, the views prevailed of those who believed in a government strong enough to secure the foundations, to maintain the credit and to assure the continued existence of a nation.

These same points of view came, however, into discussion during the years that followed the adoption of the Constitution, and are presented with full force of argument and large measure of eloquence in the historic addresses of Hayne and Calhoun on the one side and Webster and Benton on the other.

The question as to whether the policy of our country should be controlled by the people acting through a national government, or by the governments of the states acting as independent sovereignties, came to be closely connected with the institution of slavery. The students of

American history recognize today that there was no original responsibility on the part of the Southern states for the existence of slavery. It had been an institution introduced in all the colonies and having a legal existence, at least, after the organization of the Republic, in all of the thirteen states. It is quite true, as the Southern historians have taken the pains to point out, that slavery was of comparatively slight importance in the colonies, and later in the states, of the North because it did not fit in with the industrial needs of these communities. Even in the states south of the Potomac, the expectation had been at the time of the signing of the Constitution that slavery was to be brought to an end in the near future. This was the strong desire not only of the statesmen of the North, but of Southern leaders like Washington, Jefferson and others. If slavery was to disappear, it was to be brought to an end under natural causes and there was no necessity, as far as this cause of diversity of interest was concerned, for analyzing the relations to the institution on the part of the state governments on the one hand and the national authority on the other.

Washington and Jefferson gave their approval to the ordinance of 1787, drafted by Rufus Put-

nam and Manasseh Cutler, under which slavery was prohibited in the northwestern territory which constituted the great region to the north and west of the Ohio. This anti-slavery provision was written, in 1787, by Rufus Putnam on his way down the Ohio, for the founding of Marietta, the first town in the new territory, and the ordinance came to be the first official utterance made by the Republic in regard to the institution of slavery. The men who were opposing later the revocation of the Missouri Compromise of 1820 based their contentions on the ordinance of 1787.

The Republican Party, organized in 1854, and making its first political campaign in 1856, asserted as its chief purpose and policy the restriction of slavery to the states in which at that time it existed. The men who took the leadership in the new party, such as Seward and Lincoln for the Whigs and Chase and Bryant for the Free Soil Democrats, held that the obligations entered into by the founders of the Republic to restrict slavery to the states in which it was the foundation of the industrial system, must be fulfilled. They were of opinion that if slavery could be prevented from securing fresh territory, it would, under natural causes, be brought to a close in the near future. The

owners of the Southern plantations held this same belief, and it was for this reason that their pressure became keen for territory out of which new states could be framed. These new states could, however, be organized, with acceptance of slavery, only if the South could retain a majority at least in the Senate, and the institution of new states in the territory south of the Mason and Dixon line would give to the South the senators required for the maintenance of their control of the Senate.

The desire which had been expressed by Southern statesmen of the earlier period to have the institution brought to an end had been changed into a strong and increasing insistence upon the retaining of slavery as essential for the industrial development of the territories of the Southern states. The introduction of the Whitney cotton-gin had made profitable the raising of cotton, which became of enormous importance commercially, and which came to have, as late even as the Civil War, a political importance. The Southern planters contended that cotton could be raised economically only with the use of slave labor, and they held to the same contention for the rice and sugar plantations.

The test as to whether the territory specified in the ordinance of 1787 should, in contraven-

tion of that ordinance, be thrown open to slavery, came in the fight, in 1858, over the admission of Kansas. If Kansas should be accepted as a slave state, the principles laid down in 1787 had been put to one side and the whole territory belonging to the nation was to be available for the creation of other slave states. If the Lecompton Constitution, authorizing slavery, could be defeated, the men of the North felt that they would have made a precedent for the restriction of slavery to the states in which, in 1858, it still existed. The discussion, therefore, which turned upon the admission of Kansas had to do not only with a matter of immediate political interest, but with the continuing policy and the final character of the Republic itself. In these discussions, the speeches of men like Charles Sumner, Stephen A. Douglas, William H. Seward, Jefferson Davis and Robert Toombs, and above all of Abraham Lincoln, possess historic importance. These utterances tell the student of today what his grandfathers were thinking about and how respective sets of grandfathers came into sharp conflict. When, in 1858, Robert Toombs of Georgia said that he claimed the right, as an American citizen, to call the roll of his slaves on Bunker Hill, and that he expected to exercise that right, he gave expression

to the general opinion of the leaders of the South. The South felt that it was fighting for its industrial and political life, in doing what was practicable to maintain and to extend the institution of slavery. It was the contention of the Southern leaders that slaves had been recognized as property and that every American citizen should have the liberty belonging to every other citizen of carrying his property throughout the whole territory of the Republic, and of having legal protection for this property in whatever state he might want to utilize it. The Northerners insisted that slavery had at the beginning been a sectional institution and that it must not be permitted to become national. It was with the North not only a matter of interest for the continued existence of the Republic, which would they believed be shattered if the attempt were pressed to make slavery national, but something that oppressed the individual conscience. Men like Wendell Phillips and William Lloyd Garrison took the ground that they could not afford to remain American citizens if they had to accept as citizens a share of responsibility for the crime of slavery. It became evident after 1860 that upon the decision of the slavery issue rested the continuance of the Republic.

The later history has made clear the soundness of Lincoln's statement that a house divided against itself could not stand. The nation must be committed to a policy of freedom for all of its people or it would, of necessity, break down.

The discussions on slavery which preceded 1858 were continued from 1858 to 1861 with discussions on the question of secession. As far back as 1832, this issue had been brought up for the decision of the Government. South Carolina, under Governor Hamilton and his associates, had taken the ground that the Republic was not a nation but a federation which had been organized by sovereign states, and that any state disagreeing with the policy of the national government had a right to protest and if its protests were not listened to, had a right to withdraw from the confederation. What the states had made, said South Carolina, the states can unmake. Andrew Jackson, although a born Southerner, took a different view and in this view he was backed by the great majority of the citizens of the time. The United States is a nation, he contended, and South Carolina must accept the authority of the national government. Nullification was nipped in the bud and secession was postponed for another generation.

The orations in Congress and elsewhere between 1858 and 1861 make clear the issues on which public opinion north and south of the Potomac was so sharply divided. Each section believed itself to be fighting for freedom. The Southerner claimed the freedom "belonging to all the citizens of the Republic" of carrying his "property" (his slave) into any portion of the national domain. The Northerner pointed out that the Republic was founded on the principle that "all men are born free and equal" (that is with equal rights under the law); and that the extension of slavery, heretofore a local matter, in such fashion as to make it a national institution, was inconsistent with the Declaration of Independence and with the Constitution, and must bring the Republic to destruction. The students of the present generation who want to understand what their grandfathers were fighting for, in Congress in 1860 and in the field in 1861–5, can find the substance of the issue presented with admirable clearness and impartiality in the great speech delivered by Abraham Lincoln in the Cooper Union on the 27th of February, 1860.

The Southern historians of the Civil War have taken the ground that it was a contest for state rights. There is good foundation for such a

contention. There had always been the difference of opinion between citizens south and citizens north of Mason and Dixon's line as to the constitution and character of the Republic. Was it a Federation, or had the Fathers constituted a Nation? On the other hand, it is clear that the matter of state rights would not have been invoked and pressed with such energy if it had not been for the all controlling question of slavery. There was an inconsistency also in the position taken by the Southerners in emphasizing the absolute right of each state to control its own institutions. If this were the case, there was no good reason why a piece of property such as a slave, which *was* property in South Carolina, should also be accepted as property in Massachusetts or in Kansas.

Historians, writing from the Southern point of view, have also emphasized the difference of opinion, based in the main upon a large difference in business interest, between the communities of the North and those of the South, in the matter of the tariff.

South Carolina's action in 1832 in withstanding the authority of the national government utilized as its text the enactment of a protective tariff. The statesmen, writers, and the planters of the South pointed out that such a tariff

might bring advantage to the manufacturers of the North, but that it constituted a serious injury to the business of the planters whose larger products, cotton, sugar and rice, were to be sold in the markets of the world; while much of the equipment that was needed for the running of the plantations had its cost increased through the tariff duties. This was a legitimate grievance, which is still a matter of issue and of discussion between the two great sections of the country. It would not in itself, however, have been of sufficient weight to bring about secession, or to cause the advocates of free trade to risk the perils of war.

The discussions on the tariff find place in the second volume of the Orations with arguments from representative citizens such as Henry Clay, Frank H. Hurd and others. In this same volume, we have presented in the inaugural address of Abraham Lincoln, the inaugural address of Jefferson Davis and the more conservative address of Alexander H. Stephens, the two ideals for the construction on the one hand of a Republic and on the other of a Federation.

The men who fought through the Civil War for the maintenance of the Republic held the conviction that they were fighting to ensure the continued existence of a nation. The text for

their contest was the first line of the Constitution:—"We the people of the United States." In the series of arguments preceding the war, the Southerners had insisted that the Federation had been brought together by sovereign states. It was the watchfulness of Hamilton, backed by the influence of Washington, that had brought about the organization of the Constitutional Convention with delegates who were direct representatives of the people. The men who met in Montgomery in April, 1861, to frame a constitution for their Federation did not intend to leave any possibility of doubt as to the nature of their Federal state. The Constitution of the Confederacy was the work of men who wrote, in substance, "we, the authorized representatives of seven independent sovereign states."

Historians writing since the close of the Civil War have expressed a doubt as to whether the Southern Confederacy could, on the basis of the constitution that it had adopted, have been able to maintain a national existence.

The Confederation, organized in 1783, by the thirteen colonies when they became independent states, was, in 1787, at the point of dissolution. The loosely worded constitution adopted for the federation had failed to secure

any funds, or any credit, at home or abroad, for the national treasury of the Republic, or any adequate authority for a central government.

The constitution adopted in 1861 in Montgomery follows, however, quite closely the provisions of the constitution accepted in 1783 for the federation of that date. The states of the Southern Confederacy reserved their right to protest against national authority when they did not find themselves in accord with national decisions, and if the protest was not regarded, each state reserved the right to break away from the confederation. The Confederacy was the creation of the states, and any one state could cancel its own acceptance of membership. In fact, in December, 1864, Governor Brown, of Georgia, served notice upon President Davis, in Richmond, that Georgia proposed to secede from the Confederacy. It is probable that a six months' notice was required for such secession, but in any case before the secession had taken place, the Confederacy itself had come to an end with the surrender at Appomattox. If the Confederacy had succeeded in its fight for independence, there would at once have been need for supplies for the treasury. It is doubtful, however, whether such a loose organization could

have secured a national credit which would have made possible the placing of national loans. When any unit of a Confederacy reserves the right to break away, there can be no assured foundation for the credit of such Confederacy.

The years following the war brought many problems connected with the reconstruction of the states in the South which had attempted to throw off the authority of the United States government. There were no precedents in our history, or in that of any other Federal Government, as to the policy to be pursued and the measures to be adopted to secure such reconstruction.

The arguments presented from 1864 to 1867 from the different points of view of such publicists as Thaddeus Stevens, George H. Pendleton, Henry J. Raymond and Henry Winter Davis will give to the student of today an understanding of the nature of the problems and the reasoning by means of which first one and then another solution was adopted.

From 1878 to 1890, the discussions in Congress and before the public turned on Civil Service reform and finance. The leaders of the Civil Service Reform Movement, men like Curtis and Schurz, were in this discussion opposed to the old-time politicians who could not be made

to understand that politics could be carried on without the spoils system.

In this same period comes the long fight over the question of fiat money. The first conflict was on the question of restoring the printing presses and authorizing the government to continue in time of peace to multiply the greenbacks which had been found useful in time of war. When the advocates of the printing-press money had been finally defeated (and the contest was sharp while it lasted) the fight turned on what might be called partial repudiation of obligations. A very large number of American citizens, without intending to advocate a policy of dishonesty, were insisting that the "Dollar of the Daddies," the silver dollar, which at that time was worth in the markets of the world fifty per cent. of the gold dollar, was good enough with which to pay debts, national or personal. The leadership in this fight for the payment of debts fifty cents on the dollar came into the hands of an eloquent and persuasive speaker, William J. Bryan. Bryan gathered behind him a much larger mass of American voters than were expected to support such a policy. There was, as said, no intention to advocate dishonesty, but there was great confusion of mind. The speeches during this period of men like Bryan,

Sherman and Morrill give examples of this confusion of mind mixed with patriotic purpose, and opposed by the arguments and conclusions of men who knew something about the financial history of the world.

No student of American history and no thoughtful reader who interests himself in the record of our Republic can read these American Orations without securing a fuller understanding than would otherwise have been possible of the state of mind of the successive leaders of public opinion in the United States, of the nature of the problems with which they had to grapple, of the wisdom, or lack of wisdom, with which these problems were handled, and of the grounds on which the final solution of the problems was arrived at.

Every history of the United States should make reference to some such series of addresses on the successive issues of each decade in order that the reader may secure this larger understanding of men and of events.

G. H. P.

New York,
October, 1926.

VOL. I.—PART I.

CONTENTS.

PAGE

INTRODUCTION iii

I.—COLONIALISM.

THE FORMATION OF THE CONSTITUTION . . . 3

JAMES OTIS 11
ON THE WRITS OF ASSISTANCE—BEFORE THE SUPERIOR COURT OF MASSACHUSSETTS, FEBRUARY, 1761.

PATRICK HENRY 18
CONVENTION OF DELEGATES, MARCH 28, 1775.

SAMUEL ADAMS 24
ON AMERICAN INDEPENDENCE—IN PHILADELPHIA, AUGUST 1, 1776.

ALEXANDER HAMILTON 39
ON THE EXPEDIENCY OF ADOPTING THE FEDERAL CONSTITUTION—CONVENTION OF NEW YORK, JUNE 24, 1788.

JAMES MADISON 53
ON THE EXPEDIENCY OF ADOPTING THE FEDERAL CONSTITUTION—CONVENTION OF VIRGINIA, JUNE 6, 1788.

II.—CONSTITUTIONAL GOVERNMENT.

CONSTITUTIONAL GOVERNMENT 75

ALBERT GALLATIN 84
ON THE BRITISH TREATY, HOUSE OF REPRESENTATIVES, APRIL 26, 1796.

FISHER AMES 112
ON THE BRITISH TREATY, HOUSE OF REPRESENTATIVES, APRIL 28, 1796.

PAGE

JOHN NICHOLAS 131
ON THE PROPOSED REPEAL OF THE SEDITION LAW—HOUSE OF REPRESENTATIVES, FEBRUARY 25, 1799.

III.—THE RISE OF DEMOCRACY.

THE RISE OF DEMOCRACY 147

THOMAS JEFFERSON 155
INAUGURAL ADDRESS OF THOMAS JEFFERSON, AS PRESIDENT OF THE UNITED STATES, MARCH 4, 1801.

JOHN RANDOLPH 164
ON THE MILITIA BILL—HOUSE OF REPRESENTATIVES, DECEMBER 10, 1811.

JOSIAH QUINCY 180
ON THE ADMISSION OF LOUISIANA—HOUSE OF REPRESENTATIVES, JANUARY 14, 1811.

HENRY CLAY 205
ON THE WAR OF 1812—HOUSE OF REPRESENTATIVES, JANUARY 8, 1813.

IV.—THE RISE OF NATIONALITY.

THE RISE OF NATIONALITY 219

ROBERT Y. HAYNE 233
ON MR. FOOTE'S RESOLUTION IN THE UNITED STATES SENATE, JANUARY 21, 1830.

DANIEL WEBSTER 248
IN REPLY TO HAYNE, IN THE UNITED STATES SENATE, JANUARY 26, 1830.

JOHN C. CALHOUN 303
ON NULLIFICATION AND THE FORCE BILL, IN THE UNITED STATES SENATE, FEBRUARY 15, 1833.

THOMAS H. BENTON 320
ON THE EXPUNGING RESOLUTION—UNITED STATES SENATE, JANUARY 12, 1837.

NOTES 337

VOLUME I.—PART I.

I.

COLONIALISM.

THE FORMATION OF THE CONSTITUTION.

I.

COLONIALISM.

THE FORMATION OF THE CONSTITUTION.

It has been said by an excellent authority that the Constitution was "extorted from the grinding necessities of a reluctant people." The truth of the statement is very quickly recognized by even the most superficial student of American politics. The struggle which began in 1774–5 was the direct outcome of the spirit of independence. Rather than submit to a degrading government by the arbitrary will of a foreign Parliament, the Massachusetts people chose to enter upon an almost unprecedented war of a colony against the mother country. Rather than admit the precedent of the oppression of a sister colony, the other

colonies chose to support Massachusetts in her resistance. Resistance to Parliament involved resistance to the Crown, the only power which had hitherto claimed the loyalty of the colonists; and one evil feature of the Revolution was that the spirit of loyalty disappeared for a time from American politics. There were, without doubt, many individual cases of loyalty to "Continental interests"; but the mass of the people had merely unlearned their loyalty to the Crown, and had learned no other loyalty to take its place. Their nominal allegiance to the individual colony was weakened by their underlying consciousness that they really were a part of a greater nation; their national allegiance had never been claimed by any power.

The weakness of the confederation was apparent even before its complete ratification. The Articles of Confederation were proposed by the Continental Congress, Nov. 15, 1777. They were ratified by eleven States during the year 1778, and Delaware ratified in 1779.

Maryland alone held out and refused to ratify for two years longer. Her long refusal was due to her demand for a national control of the Western territory, which many of the States were trying to appropriate. It was not until there was positive evidence that the Western territory was to be national property that Maryland acceded to the articles, and they went into operation. The interval had given time for study of them, and their defects were so patent that there was no great expectation among thinking men of any other result than that which followed. The national power which the confederation sought to create was an entire nonentity. There was no executive power, except committees of Congress, and these had no powers to execute. Congress had practically only the power to recommend to the States. It had no power to tax, to support armies or navies, to provide for the interest or payment of the public debt, to regulate commerce or internal affairs, or to perform any other function of an efficient national government. It was

merely a convenient instrument of repudiation for the States; Congress was to borrow money and incur debts, which the States could refuse or neglect to provide for. Under this system affairs steadily drifted from bad to worse for some six years after the formal ratification of the articles. There seemed to be no remedy in the forms of law, for the articles expressly provided that no alteration was to be made except by the assent of every State. Congress proposed alterations, such as the temporary grant to Congress of power to levy duties on imports; but these proposals were always vetoed by one or more states.

In 1780, in a private letter, Hamilton had suggested a convention of the States to revise the articles, and as affairs grew worse the proposition was renewed by others. The first attempt to hold such a convention, on the call of Virginia, was a failure; but five States sent delegates to Annapolis, and these wisely contented themselves with recommending another convention in the following year. Congress

was persuaded to endorse this summons; twelve of the States chose delegates, and the convention met at Philadelphia, May, 14, 1787. A quorum was obtained, May 25th, and the deliberations of the convention lasted until Sept. 28th, when the Constitution was reported to Congress.

The difficulties which met the convention were mainly the results of the division of the States into large and small States. Massachusetts, Connecticut, Virginia, North Carolina, and Georgia, the States which claimed to extend to the Mississippi on the west and cherished indefinite expectations of future growth, were the "large" States. They desired to give as much power as possible to the new national government, on condition that the government should be so framed that they should have control of it. The remaining States were properly "small" states, and desired to form a government which would leave as much power as possible to the States. Circumstances worked strongly in favor of a reasonable result. There never were more

than eleven States in the convention. Rhode Island, a small State, sent no delegates. The New Hampshire delegates did not appear until the New York delegates (except Hamilton) had lost patience and retired from the convention. Pennsylvania was usually neutral. The convention was thus composed of five large, five small, and one neutral State; and almost all its decisions were the outcome of judicious compromise.

The large States at first proposed a Congress in both of whose Houses the State representation should be proportional. They would thus have had a clear majority in both Houses, and, as Congress was to elect the President, and other officers, the government would thus have been a large State government. When "the little States gained their point," by forcing through the equal representation of the States in the Senate, the unsubstantial nature of the "national" pretensions of the large States at once became apparent. The opposition to the whole scheme centred in the large States, with

very considerable assistance from New York, which was not satisfied with the concessions which the small States had obtained in the convention. The difficulty of ratification may be estimated from the final votes in the following State conventions: Massachusetts, 187 to 168; New Hampshire, 57 to 46; Virginia, 89 to 79; and New York, 30 to 27. It should also be noted that the last two ratifications were only made after the ninth State (New Hampshire) had ratified, and when it was certain that the Constitution would go into effect with or without the ratification of Virginia or New York. North Carolina did not ratify until 1789, and Rhode Island not until 1790.

The division between North and South also appeared in the convention. In order to carry over the Southern States to the support of the final compromise, it was necessary to insert a guarantee of the slave trade for twenty years, and a provision that three fifths of the slaves should be counted in estimating the population for State representation in Congress. But these

provisions, so far as we can judge from the debates of the time, had no influence against the ratification of the Constitution; the struggle turned on the differences between the national leaders, aided by the satisfied small States, on one side, and the leaders of the State party, aided by the dissatisfied States, large and small, on the other. The former, the Federalists, were successful, though by very narrow majorities in several of the States. Washington was unanimously elected the first President of the Republic; and the new government was inaugurated at New York, March 4, 1789.

The speech of Henry in the Virginia House of Delegates has been chosen as perhaps the best representative of the spirit which impelled and guided the American Revolution. It is fortunate that the ablest of the national leaders was placed in the very focus of opposition to the Constitution, so that we may take Hamilton's argument in the New York convention and Madison's in the Virginia convention, as the most carefully stated conclusions of the master-minds of the National party.

JAMES OTIS,*

OF MASSACHUSETTS.[1]

(BORN 1725, DIED 1783.)

ON THE WRITS OF ASSISTANCE[2]—BEFORE THE SUPERIOR COURT OF MASSACHUSETTS, FEBRUARY, 1761.

MAY IT PLEASE YOUR HONORS: I was desired by one of the court to look into the books, and consider the question now before them concerning Writs of Assistance. I have accordingly considered it, and now appear not only in obedience to your order, but likewise in behalf of the inhabitants of this town, who have presented another petition, and out of regard to the liberties of the subject. And I take this opportunity to declare, that whether under a fee or not (for in such a cause as this I despise a fee), I will to my dying day oppose with all the powers and faculties God has given me, all such instruments of slavery on the one

* For notes on Otis see Appendix, p. 337.

hand, and villainy on the other, as this writ of assistance is.

It appears to me the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law, that ever was found in an English law-book. I must therefore beg your honors' patience and attention to the whole range of an argument, that may perhaps appear uncommon in many things, as well as to points of learning that are more remote and unusual: that the whole tendency of my design may the more easily be perceived, the conclusions better descend, and the force of them be better felt. I shall not think much of my pains in this cause, as I engaged in it from principle. I was solicited to argue this cause as Advocate-General; and because I would not, I have been charged with desertion from my office. To this charge I can give a very sufficient answer. I renounced that office, and I argue this cause from the same principle; and I argue it with the greater pleasure, as it is in favor of British liberty, at a time when we hear the greatest monarch upon earth declaring from his throne that he glories in the name of Briton, and that the privileges of his people are dearer to him than the most valu-

able prerogatives of his crown ; and as it is in opposition to a kind of power, the exercise of which in former periods of history cost one king of England his head, and another his throne. I have taken more pains in this cause than I ever will take again, although my engaging in this and another popular cause has raised much resentment. But I think I can sincerely declare, that I cheerfully submit myself to every odious name for conscience' sake ; and from my soul I despise all those whose guilt, malice, or folly has made them my foes. Let the consequences be what they will, I am determined to proceed. The only principles of public conduct, that are worthy of a gentleman or a man, are to sacrifice estate, ease, health, and applause, and even life, to the sacred calls of his country.

These manly sentiments, in private life, make the good citizens; in public life, the patriot and the hero. I do not say that, when brought to the test, I shall be invincible. I pray God I may never be brought to the melancholy trial, but if ever I should, it will be then known how far I can reduce to practice principles which I know to be founded in truth. In the meantime I will proceed to the subject of this writ.

Your honors will find in the old books concerning the office of a justice of the peace, precedents of general warrants to search suspected houses. But in more modern books, you will find only special warrants to search such and such houses, specially named, in which the complainant has before sworn that he suspects his goods are concealed; and will find it adjudged, that special warrants only are legal. In the same manner I rely on it, that the writ prayed for in this petition, being general, is illegal. It is a power that places the liberty of every man in the hands of every petty officer. I say I admit that special writs of assistance, to search special places, may be granted to certain persons on oath; but I deny that the writ now prayed for can be granted, for I beg leave to make some observations on the writ itself, before I proceed to other acts of Parliament. In the first place, the writ is *universal*, being directed "to all and singular justices, sheriffs, constables, and all other officers and subjects"; so that, in short, it is directed to every subject in the king's dominions. Every one with this writ may be a tyrant; if this commission be legal, a tyrant in a legal manner, also, may control, imprison, or murder any

one within the realm. In the next place, it is *perpetual*, there is no return. A man is accountable to no person for his doings. Every man may reign secure in his petty tyranny, and spread terror and desolation around him, until the trump of the archangel shall excite different emotions in his soul. In the third place, a person with this writ, in the daytime, may enter all houses, shops, etc., at will, and command all to assist him. Fourthly, by this writ, not only deputies, etc., but even their menial servants, are allowed to lord it over us. What is this but to have the curse of Canaan with a witness on us; to be the servant of servants, the most despicable of God's creation? Now one of the most essential branches of English liberty is the freedom of one's house. A man's house is his castle; and whilst he is quiet, he is as well guarded as a prince in his castle. This writ, if it should be declared legal, would totally annihilate this privilege. Custom-house officers may enter our houses when they please; we are commanded to permit their entry. Their menial servants may enter, may break locks, bars, and everything in their way; and whether they break through malice or revenge, no man, no

court can inquire. Bare suspicion without oath is sufficient. This wanton exercise of this power is not a chimerical suggestion of a heated brain. I will mention some facts. Mr. Pew had one of these writs, and when Mr. Ware succeeded him, he endorsed this writ over to Mr. Ware; so that these writs are negotiable from one officer to another; and so your honors have no opportunity of judging the persons to whom this vast power is delegated. Another instance is this: Mr. Justice Walley had called this same Mr. Ware before him, by a constable, to answer for a breach of the Sabbath-day acts, or that of profane swearing. As soon as he had finished, Mr. Ware asked him if he had done. He replied, "Yes." "Well then," said Mr. Ware, "I will show you a little of my power. I command you to permit me to search your house for uncustomed goods"; and went on to search the house from the garret to the cellar; and then served the constable in the same manner! But to show another absurdity in this writ: if it should be established, I insist upon it every person, by the 14th Charles Second, has this power as well as the custom-house officers. The words are: "it shall be lawful for any person or per-

sons authorized," etc. What a scene does this open! Every man prompted by revenge, ill-humor, or wantonness to inspect the inside of his neighbor's house, may get a writ of assistance. Others will ask it from self-defence; one arbitrary exertion will provoke another, until society be involved in tumult and in blood.[3]

PATRICK HENRY,*

OF VIRGINIA.[1]

(BORN 1736, DIED 1799.)

CONVENTION OF DELEGATES, MARCH 28, 1775.[2]

MR. PRESIDENT:

No man thinks more highly than I do of the patriotism, as well as abilities, of the very worthy gentlemen who have just addressed the House.[3] But different men often see the same subject in different lights; and, therefore, I hope that it will not be thought disrespectful to those gentlemen, if, entertaining as I do, opinions of a character very opposite to theirs, I shall speak forth my sentiments freely and without reserve. This is no time for ceremony. The question before the House is one of awful moment to this country. For my own part I consider it as nothing less than a question of freedom or slavery; and in proportion to the magnitude of the subject ought to be the freedom of the debate. It is only in this way that

* For notes on Henry see Appendix, p. 340.

we can hope to arrive at truth, and fulfil the great responsibility which we hold to God and our country. Should I keep back my opinions at such a time, through fear of giving offence, I should consider myself as guilty of treason toward my country, and of an act of disloyalty toward the majesty of heaven, which I revere above all earthly kings.

Mr. President, it is natural to man to indulge in the illusions of hope. We are apt to shut our eyes against a painful truth, and listen to the song of that syren, till she transforms us into beasts. Is this the part of wise men, engaged in a great and arduous struggle for liberty? Are we disposed to be of the number of those who, having eyes, see not, and having ears, hear not, the things which so nearly concern their temporal salvation? For my part, whatever anguish of spirit it may cost, I am willing to know the whole truth; to know the worst and to provide for it.

I have but one lamp by which my feet are guided; and that is the lamp of experience. I know of no way of judging of the future but by the past. And judging by the past, I wish to know what there has been in the conduct of the British ministry for the last ten years, to

justify those hopes with which gentlemen have been pleased to solace themselves and the House? Is it that insidious smile with which our petition has been lately received? Trust it not, sir; it will prove a snare to your feet. Suffer not yourselves to be betrayed with a kiss. Ask yourselves how this gracious reception of our petition comports with these warlike preparations which cover our waters and darken our land. Are fleets and armies necessary to a work of love and reconciliation? Have we shown ourselves so unwilling to be reconciled, that force must be called in to win back our love? Let us not deceive ourselves, sir. These are the implements of war and subjugation; the last arguments to which kings resort. I ask gentlemen, sir, what means this martial array, if its purpose be not to force us to submission? Can gentlemen assign any other possible motives for it? Has Great Britain any enemy, in this quarter of the world, to call for all this accumulation of navies and armies? No, sir, she has none. They are meant for us; they can be meant for no other. They are sent over to bind and rivet upon us those chains which the British ministry have been so long forging. And what have we to

oppose to them? Shall we try argument? Sir, we have been trying that for the last ten years. Have we any thing new to offer on the subject? Nothing. We have held the subject up in every light of which it is capable; but it has been all in vain. Shall we resort to entreaty and humble supplication? What terms shall we find which have not been already exhausted? Let us not, I beseech you, sir, deceive ourselves longer. Sir, we have done every thing that could be done, to avert the storm which is now coming on. We have petitioned; we have remonstrated; we have supplicated; we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the ministry and parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt, from the foot of the throne. In vain, after these things, may we indulge the fond hope of peace and reconciliation. There is no longer any room for hope. If we wish to be free—if we mean to preserve inviolate those inestimable privileges for which we have been so long contending—if

we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon until the glorious object of our contest shall be obtained, we must fight! I repeat it, sir, we must fight! An appeal to arms and to the God of Hosts is all that is left us!

They tell us, sir, that we are weak; unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance, by lying supinely on our backs, and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak, if we make a proper use of the means which the God of nature hath placed in our power. Three millions of people, armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us. Besides, sir, we shall not fight our battles alone. There is a just God who presides

over the destinies of nations; and who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat, but in snbmission and slavery! Our chains are forged! Their clanking may be heard on the plains of Boston! The war is inevitable—and let it come! I repeat it, sir, let it come!

It is in vain, sir, to extenuate the matter. Gentlemen may cry peace, peace—but there is no peace. The war is actually begun! The next gale that sweeps from the north will bring to our ears the clash of resounding arms! Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty, or give me death!"

SAMUEL ADAMS,*

OF MASSACHUSETTS.[1]

(BORN 1722, DIED 1803.)

ON AMERICAN INDEPENDENCE [2]—IN PHILADELPHIA, AUGUST 1, 1776.

COUNTRYMEN AND BRETHREN: I would gladly have declined an honor, to which I find myself unequal. I have not the calmness and impartiality which the infinite importance of this occasion demands. I will not deny the charge of my enemies, that resentment for the accumulated injuries of our country, and an ardor for her glory, rising to enthusiasm, may deprive me of that accuracy of judgment and expression which men of cooler passions may possess. Let me beseech you then, to hear me with caution, to examine without prejudice, and to correct the mistakes into which I may be hurried by my zeal.

* For notes on Adams see Appendix, p. 344.

Truth loves an appeal to the common sense of mankind. Your unperverted understandings can best determine on subjects of a practical nature. The positions and plans which are said to be above the comprehension of the multitude may be always suspected to be visionary and fruitless. He who made all men hath made the truths necessary to human happiness obvious to all.

Our forefathers threw off the yoke of Popery in religion; for you is reserved the honor of levelling the Popery of politics. They opened the Bible to all, and maintained the capacity of every man to judge for himself in religion. Are we sufficient for the comprehension of the sublimest spiritual truths, and unequal to material and temporal ones? Heaven hath trusted us with the management of things for eternity, and man denies us ability to judge of the present, or to know from our feelings the experience that will make us happy. "You can discern," say they, "objects distant and remote, but cannot perceive those within your grasp. Let us have the distribution of present goods, and cut out and manage as you please the interests of futurity." This day, I trust, the reign of political protestantism will commence.

We have explored the temple of royalty, and found that the idol we have bowed down to, has eyes which see not, ears that hear not our prayers, and a heart like the nether millstone. We have this day restored the Sovereign, to whom alone men ought to be obedient. He reigns in heaven, and with a propitious eye beholds His subjects assuming that freedom of thought and dignity of self-direction which He bestowed on them. From the rising to the setting sun, may His kingdom come.

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Men who content themselves with the semblance of truth, and a display of words, talk much of our obligations to Great Britain for protection. Had she a single eye to our advantage? A nation of shopkeepers are very seldom so disinterested.[3] Let us not be so amused with words; the extension of her commerce was her object. When she defended our coasts, she fought for her customers, and convoyed our ships loaded with wealth, which we had acquired for her by our industry. She has treated us as beasts of burthen, whom the lordly masters cherish that they may carry a greater load. Let us inquire also against whom she has protected us? Against her own enemies

with whom we had no quarrel, or only on her account, and against whom we always readily exerted our wealth and strength when they were required. Were these colonies backward in giving assistance to Great Britain, when they were called upon in 1739, to aid the expedition against Carthagena?[4] They at that time sent three thousand men to join the British army, although the war commenced without their consent. But the last war, 't is said, was purely American. This is a vulgar error, which, like many others, has gained credit by being confidently repeated. The dispute between the Courts of Great Britain and France, related to the limits of Canada and Nova Scotia. The controverted territory was not claimed by any in the colonies, but by the Crown of Great Britain. It was therefore their own quarrel. The infringement of a right which England had, by the treaty of Utrecht, of trading in the Indian country of Ohio, was another cause of the war. The French seized large quantities of British manufactures, and took possession of a fort which a company of British merchants and factors had erected for the security of their commerce. The war was therefore waged in defence of lands claimed by

the Crown, and for the protection of British property. The French at that time had no quarrel with America; and, as appears by letters sent from their commander-in-chief, to some of the colonies, wished to remain in peace with us. The part therefore which we then took, and the miseries to which we exposed ourselves, ought to be charged to our affection for Britain. These colonies granted more than their proportion to the support of the war. They raised, clothed, and maintained nearly twenty-five thousand men, and so sensible were the people of England of our great exertions, that a message was annually sent to the House of Commons purporting: "That his majesty, being highly satisfied of the zeal and vigor with which his faithful subjects in North America had exerted themselves in defence of his majesty's just rights and possessions, recommend it to the House, to take the same into consideration, and enable him to give them a proper compensation."

But what purpose can arguments of this kind answer? Did the protection we received annul our rights as men, and lay us under an obligation of being miserable?

Who among you, my countrymen, that is a

father, would claim authority to make your child a slave because you had nourished him in his infancy?

'T is a strange species of generosity which requires a return infinitely more valuable than anything it could have bestowed; that demands as a reward for a defence of our property, a surrender of those inestimable privileges, to the arbitrary will of vindictive tyrants, which alone give value to that very property.

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Courage, then, my countrymen! our contest is not only whether we ourselves shall be free, but whether there shall be left to mankind an asylum on earth, for civil and religious liberty? Dismissing, therefore, the justice of our cause as incontestable, the only question is, What is best for us to pursue in our present circumstances?

The doctrine of dependence on Great Britain is, I believe, generally exploded; but as I would attend to the honest weakness of the simplest of men, you will pardon me if I offer a few words on that subject.

We are now on this continent, to the astonishment of the world, three millions of souls united in one common cause. We have large armies, well disciplined and appointed, with

commanders inferior to none in military skill, and superior in activity and zeal. We are furnished with arsenals and stores beyond our most sanguine expectations, and foreign nations are waiting to crown our success by their alliances. There are instances of, I would say, an almost astonishing Providence in our favor; our success has staggered our enemies, and almost given faith to infidels; so that we may truly say it is not our own arm which has saved us.

The hand of Heaven appears to have led us on to be, perhaps, humble instruments and means in the great Providential dispensation which is completing. We have fled from the political Sodom; let us not look back, lest we perish and become a monument of infamy and derision to the world! For can we ever expect more unanimity and a better preparation for defence; more infatuation of counsel among our enemies, and more valor and zeal among ourselves? The same force and resistance which are sufficient to procure us our liberties, will secure us a glorious independence and support us in the dignity of free, imperial states. We can not suppose that our opposition has made a corrupt and dissipated nation more friendly

to America, or created in them a greater respect for the rights of mankind. We can therefore expect a restoration and establishment of our privileges, and a compensation for the injuries we have received from their want of power, from their fears, and not from their virtues. The unanimity and valor, which will effect an honorable peace, can render a future contest for our liberties unnecessary. He who has strength to chain down the wolf, is a madman if he lets him loose without drawing his teeth and paring his nails.

From the day on which an accommodation takes place between England and America, on any other terms than as independent states, I shall date the ruin of this country. A politic minister will study to lull us into security, by granting us the full extent of our petitions. The warm sunshine of influence would melt down the virtue, which the violence of the storm rendered more firm and unyielding. In a state of tranquillity, wealth, and luxury, our descendants would forget the arts of war, and the noble activity and zeal which made their ancestors invincible. Every art of corruption would be employed to loosen the bond of union which renders our resistance formidable. When

the spirit of liberty which now animates our hearts and gives success to our arms is extinct, our numbers will accelerate our ruin, and render us easier victims to tyranny. Ye abandoned minions of an infatuated ministry, if peradventure any should yet remain among us!—remember that a Warren and a Montgomery are numbered among the dead. Contemplate the mangled bodies of your countrymen, and then say, What should be the reward of such sacrifices? Bid us and our posterity bow the knee, supplicate the friendship, and plough, and sow, and reap, to glut the avarice of the men who have let loose on us the dogs of war to riot in our blood, and hunt us from the face of the earth? If ye love wealth better than liberty, the tranquillity of servitude than the animating contest of freedom—go from us in peace. We ask not your counsels or arms. Crouch down and lick the hands which feed you. May your chains set lightly upon you, and may posterity, forget that ye were our countrymen.

To unite the Supremacy of Great Britain and the Liberty of America, is utterly impossible. So vast a continent and of such a distance from the seat of empire, will every day grow more unmanageable. The motion of so

unwieldy a body cannot be directed with any dispatch and uniformity, without committing to the Parliament of Great Britain, powers inconsistent with our freedom. The authority and force which would be absolutely necessary for the preservation of the peace and good order of this continent, would put all our valuable rights within the reach of that nation.

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Some who would persuade us that they have tender feelings for future generations, while they are insensible to the happiness of the present, are perpetually foreboding a train of dissensions under our popular system. Such men's reasoning amounts to this—give up all that is valuable to Great Britain, and then you will have no inducements to quarrel among yourselves; or suffer yourselves to be chained down by your enemies, that you may not be able to fight with your friends.

This is an insult on your virtue as well as your common sense. Your unanimity this day and through the course of the war is a decisive refutation of such invidious predictions. Our enemies have already had evidence that our present constitution contains in it the justice and ardor of freedom, and the wisdom and

vigor of the most absolute system. When the law is the will of the people, it will be uniform and coherent; but fluctuation, contradiction, and inconsistency of councils must be expected under those governments where every revolution in the ministry of a court produces one in the state. Such being the folly and pride of all ministers, that they ever pursue measures directly opposite to those of their predecessors.

We shall neither be exposed to the necessary convulsions of elective Monarchies, nor to the want of wisdom, fortitude, and virtue, to which hereditary succession is liable. In your hands it will be to perpetuate a prudent, active, and just legislature, and which will never expire until you yourselves lose the virtues which give it existence.

And, brethren and fellow-countrymen, if it was ever granted to mortals to trace the designs of Providence, and interpret its manifestations in favor of their cause, we may, with humility of soul, cry out, "Not unto us, not unto us, but to thy Name be the praise." The confusion of the devices among our enemies, and the rage of the elements against them, have done almost as much towards our success as either our councils or our arms.

The time at which this attempt on our liberties was made, when we were ripened into maturity, had acquired a knowledge of war, and were free from the incursions of enemies in this country, the gradual advances of our oppressors enabling us to prepare for our defence, the unusual fertility of our lands and clemency of the seasons, the success which at first attended our feeble arms, producing unanimity among our friends and reducing our internal foes to acquiescence,—these are all strong and palpable marks and assurances, that Providence is yet gracious unto Zion, that it will turn away the captivity of Jacob.

We have now no other alternative than independence, or the most ignominious and galling servitude. The legions of our enemies thicken on our plains; desolation and death mark their bloody career; whilst the mangled corpses of our countrymen seem to cry out to us as a voice from heaven: "Will you permit our posterity to groan under the galling chains of our murderers? Has our blood been expended in vain? Is the only reward which our constancy, till death, has obtained for our country, that it should be sunk into a deeper and more ignominious vassalage? Recollect who are the men

that demand your submission; to whose decrees you are invited to pay obedience! Men who, unmindful of their relation to you as brethren, of your long implicit submission to their laws; of the sacrifice which you and your forefathers made of your natural advantages for commerce to their avarice,—formed a deliberate plan to wrest from you the small pittance of property which they had permitted you to acquire. Remember that the men who wish to rule over you are they who, in pursuit of this plan of despotism, annulled the sacred contracts which had been made with your ancestors; conveyed into your cities a mercenary soldiery to compel you to submission by insult and murder—who called your patience, cowardice; your piety, hypocrisy."

Countrymen! the men who now invite you to surrender your rights into their hands are the men who have let loose the merciless savages to riot in the blood of their brethren—who have dared to establish popery triumphant in our land—who have taught treachery to your slaves, and courted them to assassinate your wives and children.

These are the men to whom we are exhorted to sacrifice the blessings which Providence

holds out to us—the happiness, the dignity of uncontrolled freedom and independence.

Let not your generous indignation be directed against any among us who may advise so absurd and madd'ning a measure. Their number is but few and daily decreased; and the spirit which can render them patient of slavery, will render them contemptible enemies.

Our Union is now complete; our Constitution[6] composed, established, and approved. You are now the guardians of your own liberties. We may justly address you, as the Decemviri did the Romans, and say: "Nothing that we propose, can pass into a law without your consent. Be yourselves, O Americans, the authors of those laws on which your happiness depends."

You have now, in the field, armies sufficient to repel the whole force of your enemies, and their base and mercenary auxiliaries. The hearts of your soldiers beat high with the spirit of freedom—they are animated with the justice of their cause, and while they grasp their swords, can look up to Heaven for assistance. Your adversaries are composed of wretches who laugh at the rights of humanity, who turn religion into derision, and would, for

higher wages, direct their swords against their leaders or their country. Go on, then, in your generous enterprise, with gratitude to Heaven for past success, and confidence of it in the future. For my own part, I ask no greater blessing than to share with you the common danger and common glory. If I have a wish dearer to my soul, than that my ashes may be mingled with those of a Warren and a Montgomery, it is—that these American States may never cease to be free and independent![6]

ALEXANDER HAMILTON,*

OF NEW YORK.[1]

(BORN 1757, DIED 1804.)

ON THE EXPEDIENCY OF ADOPTING THE FEDERAL CONSTITUTION—CONVENTION OF NEW YORK, JUNE 24, 1788.[2]

I AM persuaded, Mr. Chairman, that I in my turn shall be indulged, in addressing the committee. We all, in equal sincerity, profess to be anxious for the establishment of a republican government, on a safe and solid basis.[3] It is the object of the wishes of every honest man in the United States, and I presume that I shall not be disbelieved, when I declare, that it is an object of all others, the nearest and most dear to my own heart. The means of accomplishing this great purpose become the most important study which can interest mankind. It is our duty to examine all those means with peculiar attention, and to choose the best and most effectual. It is our duty to draw from nature,

*For notes on Hamilton see Appendix, p. 346.

from reason, from examples, the best principles of policy, and to pursue and apply them in the formation of our government. We should contemplate and compare the systems, which, in this examination, come under our view; distinguish, with a careful eye, the defects and excellencies of each, and discarding the former, incorporate the latter, as far as circumstances will admit, into our Constitution. If we pursue a different course and neglect this duty, we shall probably disappoint the expectations of our country and of the world.

In the commencement of a revolution, which received its birth from the usurpations of tyranny, nothing was more natural, than that the public mind should be influenced by an extreme spirit of jealousy. To resist these encroachments, and to nourish this spirit, was the great object of all our public and private institutions. The zeal for liberty became predominant and excessive. In forming our confederation, this passion alone seemed to actuate us, and we appear to have had no other view than to secure ourselves from despotism. The object certainly was a valuable one, and deserved our utmost attention. But, sir, there is another object equally important, and which our

enthusiasm rendered us little capable of regarding: I mean a principle of strength and stability in the organization of our government, and vigor in its operations. This purpose can never be accomplished but by the establishment of some select body, formed peculiarly upon this principle. There are few positions more demonstrable than that there should be in every republic, some permanent body to correct the prejudices, check the intemperate passions, and regulate the fluctuations of a popular assembly. It is evident, that a body instituted for these purposes, must be so formed as to exclude as much as possible from its own character, those infirmities and that mutability which it is designed to remedy. It is therefore necessary that it should be small, that it should hold its authority during a considerable period, and that it should have such an independence in the exercise of its powers, as will divest it as much as possible of local prejudices. It should be so formed as to be the centre of political knowledge, to pursue always a steady line of conduct, and to reduce every irregular propensity to system. Without this establishment, we may make experiments without end, but shall never have an efficient government.

It is an unqestionable truth, that the body of the people in every country desire sincerely its prosperity; but it is equally unquestionable, that they do not possess the discernment and stability necessary for systematic government. To deny that they are frequently led into the grossest errors by misinformation and passion, would be a flattery which their own good sense must despise. That branch of administration especially, which involves our political relations with foreign states, a community will ever be incompetent to. These truths are not often held up in public assemblies: but they cannot be unknown to any who hear me. From these principles it follows, that there ought to be two distinct bodies in our government: one, which shall be immediately constituted by and peculiarly represent the people, and possess all the popular features; another, formed upon the principle, and for the purposes, before explained. Such considerations as these induced the convention who formed your State constitution, to institute a Senate upon the present plan. The history of ancient and modern republics had taught them, that many of the evils which these republics had suffered, arose from the want of a certain balance and mutual

control indispensable to a wise administration; they were convinced that popular assemblies are frequently misguided by ignorance, by sudden impulses, and the intrigues of ambitious men; and that some firm barrier against these operations was necessary; they, therefore, instituted your Senate, and the benefits we have experienced have fully justified their conceptions. * * *

Gentlemen, in their reasoning, have placed the interests of the several States, and those of the United States in contrast; this is not a fair view of the subject; they must necessarily be involved in each other. What we apprehend is, that some sinister prejudice, or some prevailing passion, may assume the form of a genuine interest. The influence of these is as powerful as the most permanent conviction of the public good; and against this influence we ought to provide. The local interests of a State ought in every case to give way to the interests of the Union; for when a sacrifice of one or the other is necessary, the former becomes only an apparent, partial interest, and should yield, on the principle that the small good ought never to oppose the great one. When you assemble from your several counties

in the Legislature, were every member to be guided only by the apparent interests of his county, government would be impracticable. There must be a perpetual accommodation and sacrifice of local advantages to general expediency; but the spirit of a mere popular assembly would rarely be actuated by this important principle. It is therefore absolutely necessary that the Senate should be so formed, as to be unbiassed by false conceptions of the real interests, or undue attachment to the apparent good of their several States.

Gentlemen indulge too many unreasonable apprehensions of danger to the State governments; they seem to suppose that the moment you put men into a national council, they become corrupt and tyrannical, and lose all their affection for their fellow-citizens. But can we imagine that the Senators will ever be so insensible of their own advantage, as to sacrifice the genuine interest of their constituents? The State governments are essentially necessary to the form and spirit of the general system. As long, therefore, as Congress has a full conviction of this necessity, they must, even upon principles purely national, have as firm an attachment to the one as to the other. This

conviction can never leave them, unless they become madmen. While the constitution continues to be read, and its principle known, the States must, by every rational man, be considered as essential, component parts of The Union; and therefore the idea of sacrificing the former to the latter is wholly inadmissible.

The objectors do not advert to the natural strength and resources of State governments, which will ever give them an important superiority over the general government. If we compare the nature of their different powers, or the means of popular influence which each possesses, we shall find the advantage entirely on the side of the States. This consideration, important as it is, seems to have been little attended to. The aggregate number of representatives throughout the States may be two thousand. Their personal influence will, therefore, be proportionably more extensive than that of one or two hundred men in Congress. The State establishments of civil and military officers of every description, infinitely surpassing in number any possible correspondent establishments in the general government, will create such an extent and complication of attachments, as will ever secure the predilection

and support of the people. Whenever, therefore, Congress shall meditate any infringement of the State constitutions, the great body of the people will naturally take part with their domestic representatives. Can the general government withstand such an united opposition? Will the people suffer themselves to be stripped of their privileges? Will they suffer their Legislatures to be reduced to a shadow and a name? The idea is shocking to common-sense.

From the circumstances already explained, and many others which might be mentioned, results a complicated, irresistible check, which must ever support the existence and importance of the State governments. The danger, if any exists, flows from an opposite source. The probable evil is, that the general government will be too dependent on the State Legislatures, too much governed by their prejudices, and too obsequious to their humors; that the States, with every power in their hands, will make encroachments on the national authority, till the Union is weakened and dissolved.

Every member must have been struck with an observation of a gentleman from Albany. Do what you will, says he, local predjudices and opinions will go into the government.

What! shall we then form a constitution to cherish and strengthen these prejudices? Shall we confirm the distemper, instead of remedying it. It is undeniable that there must be a control somewhere. Either the general interest is to control the particular interests, or the contrary. If the former, then certainly the government ought to be so framed, as to render the power of control efficient to all intents and purposes; if the latter, a striking absurdity follows; the controlling powers must be as numerous as the varying interests, and the operations of the government must therefore cease; for the moment you accommodate these different interests, which is the only way to set the government in motion, you establish a controlling power. Thus, whatever constitutional provisions are made to the contrary, every government will be at last driven to the necessity of subjecting the partial to the universal interest. The gentlemen ought always, in their reasoning, to distinguish between the real, genuine good of a State, and the opinions and prejudices which may prevail respecting it; the latter may be opposed to the general good, and consequently ought to be sacrificed; the former is so involved in it, that it never can be sacrificed

There are certain social principles in human nature from which we may draw the most solid conclusions with respect to the conduct of individuals and of communities. We love our families more than our neighbors; we love our neighbors more than our countrymen in general. The human affections, like the solar heat, lose their intensity as they depart from the centre, and become languid in proportion to the expansion of the circle on which they act. On these principles, the attachment of the individual will be first and forever secured by the State governments; they will be a mutual protection and support. Another source of influence, which has already been pointed out, is the various official connections in the States. Gentlemen endeavor to evade the force of this by saying that these offices will be insignificant. This is by no means true. The State officers will ever be important, because they are necessary and useful. Their powers are such as are extremely interesting to the people; such as affect their property, their liberty, and life. What is more important than the administration of justice and the execution of the civil and criminal laws? Can the State governments become insignificant while they have

the power of raising money independently and without control? If they are really useful; if they are calculated to promote the essential interests of the people; they must have their confidence and support. The States can never lose their powers till the whole people of America are robbed of their liberties. These must go together; they must support each other, or meet one common fate. On the gentleman's principle, we may safely trust the State governments, though we have no means of resisting them; but we cannot confide in the national government, though we have an effectual constitutional guard against every encroachment. This is the essence of their argument, and it is false and fallacious beyond conception.

With regard to the jurisdiction of the two governments, I shall certainly admit that the Constitution ought to be so formed as not to prevent the States from providing for their own existence; and I maintain that it is so formed; and that their power of providing for themselves is sufficiently established. This is conceded by one gentleman, and in the next breath the concession is retracted. He says Congress has but one exclusive right in taxa-

tion—that of duties on imports; certainly, then, their other powers are only concurrent. But to take off the force of this obvious conclusion, he immediately says that the laws of the United States are supreme; and that where there is one supreme there cannot be a concurrent authority; and further, that where the laws of the Union are supreme, those of the States must be subordinate; because there cannot be two supremes. This is curious sophistry. That two supreme powers cannot act together is false. They are inconsistent only when they are aimed at each other or at one indivisible object. The laws of the United States are supreme, as to all their proper, constitutional objects; the laws of the States are supreme in the same way.[4] These supreme laws may act on different objects without clashing; or they may operate on different parts of the same common object with perfect harmony. Suppose both governments should lay a tax of a penny on a certain article; has not each an independent and uncontrollable power to collect its own tax? The meaning of the maxim, there cannot be two supremes, is simply this—two powers cannot be supreme over each other. This meaning is entirely perverted by the gen-

tlemen. But, it is said, disputes between collectors are to be referred to the federal courts. This is again wandering in the field of conjecture. But suppose the fact is certain; is it not to be presumed that they will express the true meaning of the Constitution and the laws? Will they not be bound to consider the concurrent jurisdiction; to declare that both the taxes shall have equal operation; that both the powers, in that respect, are sovereign and co-extensive? If they transgress their duty, we are to hope that they will be punished. Sir, we can reason from probabilities alone. When we leave common-sense, and give ourselves up to conjecture, there can be no certainty, no security in our reasonings.

I imagine I have stated to the committee abundant reasons to prove the entire safety of the State governments and of the people. I would go into a more minute consideration of the nature of the concurrent jurisdiction, and the operation of the laws in relation to revenue; but at present I feel too much indisposed to proceed. I shall, with leave of the committee, improve another opportunity of expressing to them more fully my ideas on this point. I wish the committee to remember that the Con-

stitution under examination is framed upon truly republican principles; and that, as it is expressly designed to provide for the common protection and the general welfare of the United States, it must be utterly repugnant to this Constitution to subvert the State governments or oppress the people.[5]

JAMES MADISON,*

OF VIRGINIA.[1]

(BORN 1751, DIED 1836.)

ON THE EXPEDIENCY OF ADOPTING THE FEDERAL CONSTITUTION—CONVENTION OF VIRGINIA, JUNE 16, 1788.[2]

MR. CHAIRMAN:

In what I am about to offer to this assembly, I shall not attempt to make impressions by any ardent professions of zeal for the public welfare. We know that the principles of every man will be, and ought to be, judged not by his professions and declarations, but by his conduct. By that criterion, I wish, in common with every other member, to be judged; and even though it should prove unfavorable to my reputation, yet it is a criterion from which I by no means would depart, nor could if I would. Comparisons have been made between

* For notes on Madison see Appendix, p. 350.

the friends of this constitution and those who oppose it. Although I disapprove of such comparisons, I trust that in everything that regards truth, honor, candor, and rectitude of motives, the friends of this system, here and in other States, are not inferior to its opponents. But professions of attachment to the public good, and comparisons of parties, at all times invidious, ought not to govern or influence us now. We ought, sir, to examine the Constitution exclusively on its own merits. We ought to inquire whether it will promote the public happiness; and its aptitude to produce that desirable object ought to be the exclusive subject of our researches. In this pursuit, we ought to address our arguments not to the feelings and passions, but to those understandings and judgments which have been selected, by the people of this country, to decide that great question by a calm and rational investigation. I hope that gentlemen, in displaying their abilities on this occasion, will, instead of giving opinions and making assertions, condescend to prove and demonstrate, by fair and regular discussion. It gives me pain to hear gentlemen continually distorting the natural construction of language. Assuredly, it is

sufficient if any human production can stand a fair discussion. Before I proceed to make some additions to the reasons which have been adduced by my honorable friend over the way, I must take the liberty to make some observations on what was said by another gentleman (Mr. Henry). He told us that this constitution ought to be rejected, because, in his opinion, it endangered the public liberty in many instances. Give me leave to make one answer to that observation—let the dangers with which this system is supposed to be replete, be clearly pointed out. If any dangerous and unnecessary powers be given to the general legislature, let them be plainly demonstrated, and let us not rest satisfied with general assertions of dangers, without proof, without examination. If powers be necessary, apparent danger is not a sufficient reason against conceding them. He has suggested, that licentiousness has seldom produced the loss of liberty; but that the tyranny of rulers has almost always effected it. Since the general civilization of mankind, I believe there are more instances of the abridgment of the freedom of the people by gradual and silent encroachments of those in power, than by violent and sudden usurpations; but

on a candid examination of history, we shall find that turbulence, violence, and abuse of power, by the majority trampling on the rights of the minority, have produced factions and commotions which, in republics, have, more frequently than any other cause, produced despotism. If we go over the whole history of ancient and modern republics, we shall find their destruction to have generally resulted from those causes. If we consider the peculiar situation of the United States, and go to the sources of that diversity of sentiment which pervades its inhabitants, we shall find great danger to fear that the same causes may terminate here in the same fatal effects which they produced in those republics. This danger ought to be wisely guarded against. In the progress of this discussion, it will perhaps appear, that the only possible remedy for those evils, and the only certain means of preserving and protecting the principles of republicanism, will be found in that very system which is now exclaimed against as the parent of oppression. I must confess that I have not been able to find his usual consistency in the gentleman's arguments on this occasion. He informs us that the people of this country are at perfect

repose; that every man enjoys the fruits of his labor peaceably and securely, and that everything is in perfect tranquillity and safety. I wish sincerely, sir, this were true. But if this be really their situation, why has every State acknowledged the contrary? Why were deputies from all the States sent to the general convention? Why have complaints of national and individual distresses been echoed and re-echoed throughout the continent? Why has our general government been so shamefully disgraced, and our Constitution violated? Wherefore have laws been made to authorize a change, and wherefore are we now assembled here? A federal government is formed for the protection of its individual members. Ours was itself attacked with impunity. Its authority has been boldly disobeyed and openly despised. I think I perceive a glaring inconsistency in another of his arguments. He complains of this Constitution, because it requires the consent of at least three fourths of the States to introduce amendments which shall be necessary for the happiness of the people. The assent of so many, he considers as too great an obstacle to the admission of salutary amendments, which he strongly in-

sists ought to be at the will of a bare majority, and we hear this argument at the very moment we are called upon to assign reasons for proposing a Constitution which puts it in the power of nine States to abolish the present inadequate, unsafe, and pernicious confederation! In the first case, he asserts that a majority ought to have the power of altering the government, when found to be inadequate to the security of public happiness. In the last case, he affirms that even three fourths of the community have not a right to alter a government which experience has proved to be subversive of national felicity; nay, that the most necessary and urgent alterations cannot be made without the absolute unanimity of all the States. Does not the thirteenth article of the confederation expressly require, that no alteration shall be made without the unanimous consent of all the States? Can any thing in theory be more perniciously improvident and injudicious than this submission of the will of the majority to the most trifling minority? Have not experience and practice actually manifested this theoretical inconvenience to be extremely impolitic? Let me mention one fact, which I conceive must carry conviction

to the mind of any one,—the smallest State in the Union has obstructed every attempt to reform the government; that little member has repeatedly disobeyed and counteracted the general authority; nay, has even supplied the enemies of its country with provisions. Twelve States had agreed to certain improvements which were proposed, being thought absolutely necessary to preserve the existence of the general government; but as these improvements, though really indispensable, could not, by the confederation, be introduced into it without the consent of every State, the refractory dissent of that little State prevented their adoption. The inconveniences resulting from this requisition of unanimous concurrence in alterations of the confederation, must be known to every member in this convention; it is therefore needless to remind them of them. Is it not self-evident, that a trifling minority ought not to bind the majority? Would not foreign influence be exerted with facility over a small minority? Would the honorable gentleman agree to continue the most radical defects in the old system, because the petty State of Rhode Island would not agree to remove them?[3]

He next objects to the exclusive legislation over the district where the seat of the government may be fixed. Would he submit that the representatives of this State should carry on their deliberations under the control of any one member of the Union? If any State had the power of legislation over the place where Congress should fix the general government, it would impair the dignity and hazard the safety of Congress. If the safety of the Union were under the control of any particular State, would not foreign corruption probably prevail in such a State, to induce it to exert its controlling influence over the members of the general government? Gentlemen cannot have forgotten the disgraceful insult which Congress received some years ago.[4] And, sir, when we also reflect, that the previous cession of particular States is necessary, before Congress can legislate exclusively anywhere, we must, instead of being alarmed at this part, heartily approve of it.

But the honorable member sees great danger in the provision concerning the militia. Now, sir, this I conceive to be an additional security to our liberties, without diminishing the power of the States in any considerable degree; it

appears to me so highly expedient, that I should imagine it would have found advocates even in the warmest friends of the present system. The authority of training the militia and appointing the officers is reserved to the States. But Congress ought to have the power of establishing a uniform system of discipline throughout the States; and to provide for the execution of the laws, suppress insurrections, and repel invasions. These are the only cases wherein they can interfere with the militia; and the obvious necessity of their having power over them in these cases must flash conviction on any reflecting mind. Without uniformity of discipline, military bodies would be incapable of action; without a general controlling power to call forth the strength of the Union, for the purpose of repelling invasions, the country might be overrun and conquered by foreign enemies. Without such a power to suppress insurrections, our liberties might be destroyed by intestine faction, and domestic tyranny be established. * * *

Give me leave to say something of the nature of the government, and to show that it is perfectly safe and just to vest it with the power of taxation. There are a number of opinions;

but the principal question is, whether it be a federal or a consolidated government. In order to judge properly of the question before us, we must consider it minutely, in its principal parts. I myself conceive that it is of a mixed nature; it is, in a manner, unprecedented. We cannot find one express prototype in the experience of the world: it stands by itself. In some respects, it is a government of a federal nature; in others, it is of a consolidated nature.[5] Even if we attend to the manner in which the Constitution is investigated, ratified, and made the act of the people of America, I can say, notwithstanding what the honorable gentleman has alleged, that this government is not completely consolidated; nor is it entirely federal. Who are the parties to it? The people—not the people as composing one great body, but the people as composing thirteen sovereignties. Were it, as the gentleman asserts, a consolidated government, the assent of a majority of the people would be sufficient for its establishment, and as a majority have adopted it already, the remaining States would be bound by the act of the majority, even if they unanimously reprobated it. Were it such a government as is suggested, it would be now binding on the

people of this State, without having had the privilege of deliberating upon it; but, sir, no State is bound by it, as it is, without its own consent. Should all the States adopt it, it will be then a government established by the thirteen States of America, not through the intervention of the legislatures, but by the people at large. In this particular respect, the distinction between the existing and proposed governments is very material. The existing system has been derived from the dependent, derivative authority of the legislatures of the States; whereas this is derived from the superior power of the people. If we look at the manner in which alterations are to be made in it, the same idea is in some degree attended to. By the new system, a majority of the States cannot introduce amendments; nor are all the States required for that purpose; three fourths of them must concur in alterations; in this there is a departure from the federal idea. The members to the national House of Representatives are to be chosen by the people at large, in proportion to the numbers in the respective districts. When we come to the Senate, its members are elected by the States in their equal and political capacity; but had

the government been completely consolidated, the Senate would have been chosen by the people, in their individual capacity, in the same manner as the members of the other House. Thus it is of complicated nature, and this complication, I trust, will be found to exclude the evils of absolute consolidation, as well as of a mere confederacy. If Virginia were separated from all the States, her power and authority would extend to all cases; in like manner, were all powers vested in the general government, it would be a consolidated government; but the powers of the federal government are enumerated; it can only operate in certain cases: it has legislative powers on defined and limited objects, beyond which it cannot extend its jurisdiction.

But the honorable member has satirized, with peculiar acrimony, the powers given to the general government by this Constitution. I conceive that the first question on this subject is, whether these powers be necessary; if they be, we are reduced to the dilemma of either submitting to the inconvenience, or losing the Union. Let us consider the most important of these reprobated powers; that of direct taxation is most generally objected to. With

respect to the exigencies of government, there is no question but the most easy mode of providing for them will be adopted. When, therefore, direct taxes are not necessary, they will not be recurred to. It can be of little advantage to those in power, to raise money in a manner oppressive to the people. To consult the conveniences of the people, will cost them nothing, and in many respects will be advantageous to them. Direct taxes will only be recurred to for great purposes. What has brought on other nations those immense debts, under the pressure of which many of them labor? Not the expenses of their governments, but war. If this country should be engaged in war, (and I conceive we ought to provide for the possibility of such a case,) how would it be carried on? By the usual means provided from year to year? As our imports will be necessary for the expenses of government, and other common exigencies, how are we to carry on the means of defence? How is it possible a war could be supported without money or credit? And would it be possible for government to have credit, without having the power of raising money? No, it would be impossible for any government, in such a case,

to defend itself. Then, I say, sir, that it is necessary to establish funds for extraordinary exigencies, and give this power to the general government; for the utter inutility of previous requisitions on the States is too well known. Would it be possible for those countries, whose finances and revenues are carried to the highest perfection, to carry on the operations of government on great emergencies, such as the maintenance of a war, without an uncontrolled power of raising money? Has it not been necessary for Great Britain, notwithstanding the facility of the collection of her taxes, to have recourse very often to this and other extraordinary methods of procuring money? Would not her public credit have been ruined, if it was known that her power to raise money was limited? Has not France been obliged, on great occasions, to recur to unusual means, in order to raise funds? It has been the case in many countries, and no government can exist unless its powers extend to make provisions for every contingency. If we were actually attacked by a powerful nation, and our general government had not the power of raising money, but depended solely on requisitions, our condition would be truly deplorable: if

the revenues of this commonwealth were to depend on twenty distinct authorities, it would be impossible for it to carry on its operations. This must be obvious to every member here: I think, therefore, that it is necessary for the preservation of the Union, that this power should be given to the general government.

But it is urged, that its consolidated nature, joined to the power of direct taxation, will give it a tendency to destroy all subordinate authority; that its increasing influence will speedily enable it to absorb the State governments. I cannot bring myself to think that this will be the case. If the general government were wholly independent of the governments of the particular States, then indeed, usurpation might be expected to the fullest extent: but, sir, on whom does this general government depend? It derives its authority from these governments, and from the same sources from which their authority is derived. The members of the federal government are taken from the same men from whom those of the State legislatures are taken. If we consider the mode in which the federal representatives will be chosen, we shall be convinced, that the general never will destroy the individual governments; and

this conviction must be strengthened by an attention to the construction of the Senate. The representatives will be chosen, probably under the influence of the State legislatures: but there is not the least probability that the election of the latter will be influenced by the former. One hundred and sixty members representing this commonwealth in one branch of the legislature, are drawn from the people at large, and must ever possess more influence than the few men who will be elected to the general legislature. Those who wish to become federal representatives, must depend on their credit with that class of men who will be the most popular in their counties, who generally represent the people in the State governments: they can, therefore, never succeed in any measure contrary to the wishes of those on whom they depend. So that, on the whole, it is almost certain that the deliberations of the members of the federal House of Representatives will be directed to the interests of the people of America. As to the other branch, the Senators will be appointed by the legislatures, and, though elected for six years, I do not conceive they will so soon forget the source whence they derive their political exist-

ence. This election of one branch of the federal, by the State legislatures, secures an absolute dependence of the former on the latter. The biennial exclusion of one third will lessen the facility of a combination, and preclude all likelihood of intrigues. I appeal to our past experience, whether they will attend to the interests of their constituent States. Have not those gentlemen who have been honored with seats in Congress often signalized themselves by their attachment to their States? Sir, I pledge myself that this government will answer the expectations of its friends, and foil the apprehensions of its enemies. I am persuaded that the patriotism of the people will continue, and be a sufficient guard to their liberties, and that the tendency of the Constitution will be, that the State governments will counteract the general interest, and ultimately prevail. The number of the representatives is yet sufficient for our safety, and will gradually increase; and if we consider their different sources of information, the number will not appear too small.

Sir, that part of the proposed Constitution which gives the general government the power of laying and collecting taxes, is indispensable

and essential to the existence of any efficient, or well organized system of government: if we consult reason, and be ruled by its dictates, we shall find its justification there: if we review the experience we have had, or contemplate the history of nations, there too we shall find ample reasons to prove its expediency. It would be preposterous to depend for necessary supplies on a body which is fully possessed of the power of withholding them. If a government depends on other governments for its revenues; if it must depend on the voluntary contributions of its members, its existence must be precarious. A government that relies on thirteen independent sovereignties for the means of its existence, is a solecism in theory, and a mere nullity in practice. Is it consistent with reason, that such a government can promote the happiness of any people? It is subversive of every principle of sound policy, to trust the safety of a community with a government totally destitute of the means of protecting itself or its members. Can Congress, after the repeated unequivocal proofs it has experienced of the utter inutility and inefficacy of requisitions, reasonably expect that they would be hereafter effectual or productive?

Will not the same local interests, and other causes, militate against a compliance? Whoever hopes the contrary must for ever be disappointed. The effect, sir, cannot be changed without a removal of the cause. Let each county in this commonwealth be supposed free and independent: let your revenues depend on requisitions of proportionate quotas from them: let application be made to them repeatedly, and then ask yourself, is it to be presumed that they would comply, or that an adequate collection could be made from partial compliances? It is now difficult to collect the taxes from them: how much would that difficulty be enhanced, were you to depend solely on their generosity? I appeal to the reason of every gentleman here, and to his candor, to say whether he is not persuaded that the present confederation is as feeble as the government of Virginia would be in that case; to the same reason I appeal, whether it be compatible with prudence to continue a government of such manifest and palpable weakness and inefficiency.

II.

CONSTITUTIONAL GOVERNMENT.

II.

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CONSTITUTIONAL government in the United States began, in its national phase, with the inauguration of Washington, but the experiment was for a long time a doubtful one. Of the two parties, the federal and the anti-federal parties, which had faced one another on the question of the adoption of the Constitution, the latter had disappeared. Its conspicuous failure to achieve the fundamental object of its existence, and the evident hopelessnesss of reversing its failure in future, blotted it out of existence. There was left but one party, the federal party; and it, strong as it appeared, was really in almost as precarious a position as its former opponent, because of the very completeness of its success in achieving its fundamental object. Hamilton and Jefferson, two

of its representative members, were opposed in almost all the political instincts of their natures; the former chose the restraints of strong government as instinctively as the latter clung to individualism. They had been accidentally united for the time in desiring the adoption of the Constitution, though Hamilton considered it only a temporary shift for something stronger, while Jefferson wished for a bill of rights to weaken the force of some of its implications. Now that the Constitution was ratified, what tie was there to hold these two to any united action for the future? Nothing but a shadow—the name of a party not yet two years old. As soon, therefore, as the federal party fairly entered upon a secure tenure of power, the divergent instincts of the two classes represented by Hamilton and Jefferson began to show themselves more distinctly until there was no longer any pretence of party unity, and the democratic (or republican) party assumed its place, in 1792–3, as the recognized opponent of the party in power. It would be beside the purpose to

attempt to enumerate the points in which the natural antagonism of the federalists and the republicans came to the surface during the decade of contest which ended in the downfall of the federal party in 1800–1. In all of them, in the struggles over the establishment of the Bank of the United States and the assumption of the State debts, in the respective sympathy for France and Great Britain, in the strong federalist legislation forced through during the war feeling against France in 1798, the controlling sympathy of the republicans for individualism and of the federalists for a strong national government is constantly visible, if looked for. The difficulty is that these permanent features are often so obscured by the temporary media in which they appear that the republicans are likely to be taken as a merely State-rights party, and the federalists as a merely commercial party.

To adopt either of these notions would be to take a very erroneous idea of American political history. The whole policy of the republi-

cans was to forward the freedom of the individual; their leader seems to have made all other points subordinate to this. There is hardly any point in which the action of the individual American has been freed from governmental restraints, from ecclesiastical government, from sumptuary laws, from restrictions on suffrage, from restrictions on commerce, production, and exchange, for which he is not indebted in some measure to the work and teaching of Jefferson between the years of 1790 and 1800. He and his party found the States in existence, understood well that they were convenient shields for the individual against the possible powers of the new federal government for evil, and made use of them. The State sovereignty of Jefferson was the product of individualism; that of Calhoun was the product of sectionalism.

On the other hand, if Jeffersonian democracy was the representative of all the individualistic tendencies of the later science of political economy, Hamiltonian federalism represented the

necessary corrective force of law. It was in many respects a strong survival of colonialism. Together with some of the evil features of colonialism, its imperative demands for submission to class government, its respect for the interests and desires of the few, and its contempt for those of the many, it had brought into American constitutional life a very high ratio of that respect for law which alone can render the happiness and usefulness of the individual a permanent and secure possession. It was impossible for federalism to resist the individualistic tendency of the country for any length of time; it is the monument of the party that it secured, before it fell, abiding guaranties for the security of the individual under freedom.

The genius of the federalists was largely practical. It was shown in their masterly organization of the federal government when it was first entrusted to their hands, an organization which has since been rather developed than disturbed in any of its parts. But the details

of the work absorbed the attention of the leaders so completely that it would be impossible to fix on any public address as entirely representative of the party. Fisher Ames' speech on the Jay treaty, which was considered by the federalists the most effective piece of oratory in their party history, has been taken as a substitute. The question was to the federalists partly of commercial and partly of national importance. John Jay had secured the first commercial treaty with Great Britain in 1795. It not only provided for the security of American commerce during the European wars to which Great Britain was a party, and obtained the surrender of the military posts in the present States of Ohio and Michigan; it also gave the United States a standing in the family of nations which it was difficult to claim elsewhere while Great Britain continued to refuse to treat on terms of equality. The Senate therefore ratified the treaty, and it was constitutionally complete. The democratic majority in the House of Representatives, ob-

jecting to the treaty as a surrender of previous engagements with France, and as a failure to secure the rights of individuals against Great Britain, particularly in the matter of impressment, raised the point that the House was not bound to vote money for carrying into effect a treaty with which it was seriously dissatisfied. The speech of Gallatin has been selected to represent the republican view. It is a strong reflection of the opposition to the Treaty. The reply of Ames is a forcible presentation of both the national and the commercial aspects of his party; it had a very great influence in securing, though by a very narrow majority, the vote of the House in favor of the appropriation.

There is some difficulty in fixing on any completely representative oration to represent the republican point of view covering this period. Gallatin's speech on the Jay Treaty together with Nicholas' argument for the repeal of the sedition law may serve this purpose. The speech of Nicholas shows the instinctive sympathy of the party for the individual rather than for the government. It

shows the force with which this sympathy drove the party into a strict construction of the Constitution. It seems also to bear the strongest internal indications that it was inspired, if not entirely written, by the great leader of the party, Jefferson. The federalists had used the popular war feeling against France in 1798, not only to press the formation of an army and a navy and the abrogation of the old and troublesome treaties with France, but to pass the alien and sedition laws as well. The former empowered the President to expel from the country or imprison any alien whom he should consider dangerous to the peace and safety of the United States. The latter forbade, under penalty of fine and imprisonment, the printing or publishing of any "false, scandalous, or malicious writings" calculated to bring the Government, Congress, or the President into disrepute, or to excite against them the hatred of the good people of the United States, or to stir up sedition. It was inevitable that the republicans should oppose such laws, and that the people should support them in their oppo-

sition. At the election of 1800, the federal party was overthrown, and the lost ground was never regained. With Jefferson's election to the presidency, began the democratic period of the United States; but it has always been colored strongly and naturally by the federal bias toward law and order.

ALBERT GALLATIN,*

OF PENNSYLVANIA.[1]

(BORN 1761, DIED 1849.)

ON THE BRITISH TREATY—HOUSE OF REPRESENTATIVES, APRIL 26, 1796.[2]

MR. CHAIRMAN:

I will not follow some of the gentlemen who have preceded me, by dwelling upon the discretion of the legislature; a question which has already been the subject of our deliberations, and been decided by a solemn vote.[3] Gentlemen who were in the minority on that question may give any construction they please to the declaratory resolution of the House; they may again repeat that to refuse to carry the treaty into effect is a breach of the public faith which they conceive as being pledged by the President and Senate. This has been the ground on which a difference of opinion has existed

* For notes on Gallatin see Appendix, p. 353.

since the beginning of the discussion. It is because the House thinks that the faith of the nation cannot, on those subjects submitted to the power of Congress, be pledged by any constituted authority other than the legislature, that they resolved that in all such cases it is their right and duty to consider the expediency of carrying a treaty into effect. If the House think the faith of the nation already pledged they can not claim any discretion; there is no room left to deliberate upon the expediency of the thing. The resolution now under consideration is merely "that it is expedient to carry the British treaty into effect," and not whether we are bound by national faith to do it. I will therefore consider the question of expediency alone; and thinking as I do that the House has full discretion on this subject, I conceive that there is as much responsibility in deciding in the affirmative as in rejecting the resolution, and that we shall be equally answerable for the consequences that may follow from either.

It is true, however, that there was a great difference between the situation of this country in the year 1794, when a negotiator was appointed, and that in which we are at present;

and that consequences will follow the refusal to carry into effect the treaty in its present stage, which would not have attended a refusal to negotiate and to enter into such a treaty. The question of expediency, therefore, assumes before us a different and more complex shape than when before the negotiator, the Senate, or the President. The treaty, in itself and abstractedly considered, may be injurious; it may be such an instrument as in the opinion of the House ought not to have been adopted by the Executive; and yet such as it is we may think it expedient under the present circumstances to carry it into effect. I will therefore first take a view of the provisions of the treaty itself, and in the next place, supposing it is injurious, consider, in case it is not carried into effect, what will be the natural consequences of such refusal.

The provisions of the treaty relate either to the adjustment of past differences, or to the future intercourse of the two nations. The differences now existing between Great Britain and this country arose either from non-execution of some articles of the treaty of peace or from the effects of the present European war. The complaints of Great Britain in relation to

the treaty of 1783 were confined to the legal impediments thrown by the several States in the way of the recovery of British debts. The late treaty provides adequate remedy on that subject; the United States are bound to make full and complete compensation for any losses arising from that source, and every ground of complaint on the part of Great Britain is removed.

Having thus done full justice to the other nation, America has a right to expect that equal attention shall be paid to her claims arising from infractions of the treaty of peace, viz., compensation for the negroes carried away by the British; restoration of the western posts, and indemnification for their detention.

On the subject of the first claim, which has been objected to as groundless, I will observe that I am not satisfied that the construction given by the British government to that article of the treaty is justified even by the letter of the article. That construction rests on the supposition that slaves come under the general denomination of booty, and are alienated the moment they fall into possession of an enemy, so that all those who were in the hands of the

British when the treaty of peace was signed, must be considered as British and not as American property, and are not included in the article. It will, however, appear by recurring to Vattel when speaking of the right of "Postliminium,"[4] that slaves cannot be considered as a part of the booty which is alienated by the act of capture, and that they are to be ranked rather with real property, to the profits of which only the captors are entitled. Be that as it may, there is no doubt that the construction given by America is that which was understood by the parties at the time of making the treaty. The journals of Mr. Adams, quoted by a gentleman from Connecticut, Mr. Coit, prove this fully; for when he says that the insertion of this article was alone worth the journey of Mr. Laurens from London,[5] can it be supposed that he would have laid so much stress on a clause, which, according to the new construction now attempted to be given, means only that the British would commit no new act of hostility—would not carry away slaves at that time in possession of Americans? Congress recognized that construction by adopting the resolution which has been already quoted, and which was introduced

upon the motion of Mr. Alexander Hamilton; and it has not been denied that the British ministry during Mr. Adams' embassy also agreed to it.[6]

But when our negotiator had, for the sake of peace, waived that claim; when he had also abandoned the right which America had to demand an indemnification for the detention of the posts, although he had conceded the right of a similar nature, which Great Britain had for the detention of debts; when he had thus given up everything which might be supposed to be of a doubtful nature, it might have been hoped that our last claim—a claim on which there was not and there never had been any dispute—the western posts should have been restored according to the terms of the treaty of peace. Upon what ground the British insisted, and our negotiator conceded, that this late restitution should be saddled with new conditions, which made no part of the original contract, I am at a loss to know. British traders are allowed by the new treaty to remain within the posts without becoming citizens of the United States; and to carry on trade and commerce with the Indians living within our boundaries without being subject to any con-

trol from our government. In vain is it said that if that clause had not been inserted we would have found it to our interest to effect it by our own laws. Of this we are alone competent judges; if that condition is harmless at present it is not possible to foresee whether, under future circumstances, it will not prove highly injurious; and whether harmless or not, it is not less a permanent and new condition imposed upon us. But the fact is, that by the introduction of that clause, by obliging us to keep within our jurisdiction, as British subjects, the very men who have been the instruments used by Great Britain to promote Indian wars on our frontiers; by obliging us to suffer those men to continue their commerce with the Indians living in our territory, uncontrolled by those regulations which we have thought necessary in order to restrain our own citizens in their intercourse with these tribes, Great Britain has preserved her full influence with the Indian nations. By a restoration of the posts under that condition we have lost the greatest advantage that was expected from their possession, viz.: future security against the Indians. In the same manner have the British preserved the commercial advantages which result from

the occupancy of those posts, by stipulating as a permanent condition, a free passage for their goods across our portages without paying any duty.

Another article of the new treaty which is connected with the provisions of the treaty of 1783 deserves consideration; I mean what relates to the Mississippi. At the time when the navigation of that river to its mouth was by the treaty of peace declared to be common to both nations, Great Britain communicated to America a right which she held by virtue of the treaty of 1763, and as owner of the Floridas; but since that cession to the United States, England has ceded to Spain her claim on the Floridas, and does not own at the present time an inch of ground, either on the mouth or on any part of that river. Spain now stands in the place of Great Britain, and by virtue of the treaty of 1783 it is to Spain and America, and not to England and America, that the navigation of the Mississippi is at present to be common. Yet, notwithstanding this change of circumstances, we have repeated that article of the former treaty in the late one, and have granted to Great Britain the additional privilege of using our ports on the eastern side of the

river, without which, as they own no land thereon, they could not have navigated it. Nor is this all. Upon a supposition that the Mississippi does not extend so far northward as to be intersected by a line drawn due west from the Lake of the Woods, or, in other words, upon a supposition that Great Britain has not a claim even to touch the Mississippi, we have agreed, not upon what will be the boundary line, but that we will hereafter negotiate to settle that line. Thus leaving to future negotiation what should have been finally settled by the treaty itself, in the same manner as all other differences were, is calculated for the sole purpose, either of laying the foundation of future disputes, or of recognizing a claim in Great Britain on the waters of the Mississippi, even if their boundary line leaves to the southward the sources of that river. Had not that been the intention of Great Britain the line would have been settled at once by the treaty, according to either of the two only rational ways of doing it in conformity to the treaty of 1783, that is to say, by agreeing that the line should run from the northernmost sources of the Mississippi, either directly to the western extremity of the Lake of the Woods, or northwardly till

it intersected the line to be drawn due west from that lake. But by repeating the article of the treaty of 1783; by conceding the free use of our ports on the river, and by the insertion of the fourth article, we have admitted that Great Britain, in all possible events, has still a right to navigate that river from its source to its mouth. What may be the future effects of these provisions, especially as they regard our intercourse with Spain, it is impossible at present to say; but although they can bring us no advantage, they may embroil us with that nation: and we have already felt the effect of it in our late treaty with Spain, since we were obliged, on account of that clause of the British treaty, to accept as a gift and a favor the navigation of that river which we had till then claimed as a right. * * *

But if, leaving commercial regulations, we shall seek in the treaty for some provisions securing to us the free navigation of the ocean against any future aggressions on our trade, where are they to be found? I can add nothing to what has been said on the subject of contraband articles: it is, indeed, self-evident, that, connecting our treaty with England on that subject with those we have made with

other nations, it amounts to a positive compact to supply that nation exclusively with naval stores whenever they may be at war. Had the list of contraband articles been reduced—had naval stores and provisions, our two great staple commodities, been declared not to be contraband, security would have been given to the free exportation of our produce; but instead of any provision being made on that head, an article of a most doubtful nature, and on which I will remark hereafter, has been introduced. But I mean, for the present, to confine my observations to the important question of free bottoms making free goods. It was with the utmost astonishment that I heard the doctrine advanced on this floor, that such a provision, if admitted, would prove injurious to America, inasmuch as in case of war between this country and any other nation, the goods of that nation might be protected by the English flag. It is not to a state of war that the benefits of this provision would extend; but it is the only security which neutral nations can have against the legal plundering on the high seas, so often committed by belligerent powers. It is not for the sake of protecting an enemy's property; it is not for the sake of securing an advantageous

carrying trade; but it is in order effectually to secure ourselves against sea aggressions, that this provision is necessary. Spoliations may arise from unjust orders, given by the government of a belligerent nation to their officers and cruisers, and these may be redressed by application to and negotiation with that order. But no complaints, no negotiations, no orders of government itself, can give redress when those spoliations are grounded on a supposition, that the vessels of the neutral nation have an enemy's property on board, as long as such property is not protected by the flag of the neutral nation; as long as it is liable to be captured, it is not sufficient, in order to avoid detention and capture, to have no such property on board. Every privateer, under pretence that he suspects an enemy's goods to be part of a cargo, may search, vex, and capture a vessel; and if in any corner of the dominions of the belligerent power, a single judge can be found inclined, if not determined, to condemn, at all events, before his tribunal, all vessels so captured will be brought there, and the same pretence which caused the capture will justify a condemnation. The only nation who persists in the support of this doctrine, as making part

of the law of nations, is the first maritime power of Europe, whom their interest, as they are the strongest, and as there is hardly a maritime war in which they are not involved, leads to wish for a continuation of a custom which gives additional strength to their overbearing dominion over the seas. All the other nations have different sentiments and a different interest. During the American war, in the year 1780, so fully convinced were the neutral nations of the necessity of introducing that doctrine of free bottoms making free goods, that all of them, excepting Portugal, who was in a state of vassalage to, and a mere appendage of, Great Britain, united in order to establish the principle, and formed for that purpose the alliance known by the name of the armed neutrality. All the belligerent powers, except England, recognized and agreed to the doctrine. England itself was obliged, in some measure, to give, for a while, a tacit acquiescence. America, at the time, fully admitted the principle, although then at war.

Since the year 1780, every nation, so far as my knowledge goes, has refused to enter into a treaty of commerce with England, unless that provision was inserted. Russia, for that reason,

would not renew their treaty, which had expired in 1786; although I believe that, during the present war, and in order to answer the ends of the war, they formed a temporary convention, which I have not seen, but which, perhaps, does not include that provision. England consented to it in her treaty with France, in 1788, and we are the first neutral nation who has abandoned the common cause, given up the claim, and by a positive declaration inserted in our treaty, recognized the contrary doctrine. It has been said that, under the present circumstances, it could not be expected that Great Britain would give up the point; perhaps so; but the objection is not, that our negotiator has not been able to obtain that principle, but that he has consented to enter into a treaty of commerce which we do not want, and which has no connection with an adjustment of our differences with Great Britain, without the principle contended for making part of that treaty. Unless we can obtain security for our navigation, we want no treaty; and the only provision which can give us that security, should have been the *sine qua non* of a treaty. On the contrary, we have disgusted all the other neutral nations of Europe, without whose

concert and assistance there is but little hope that we shall ever obtain that point; and we have taught Great Britain that we are disposed to form the most intimate connections with her, even at the expense of recognizing a principle the most fatal to the liberty of commerce and to the security of our navigation.

But, if we could not obtain anything which might secure us against future aggressions, should we have parted, without receiving any equivalent, with those weapons of self-defence, which, although they could not repel, might, in some degree, prevent any gross attacks upon our trade—any gross violation of our rights as a neutral nation? We have no fleet to oppose or to punish the insults of Great Britain; but, from our commercial relative situation, we have it in our power to restrain her aggressions, by restrictions on her trade, by a total prohibition of her manufactures, or by a sequestration of the debts due to her. By the treaty, not satisfied with receiving nothing, not satisfied with obtaining no security for the future, we have, of our own accord, surrendered those defensive arms, for fear they might be abused by ourselves. We have given up the two first, for the whole time during which we might

want them most, the period of the present war; and the last, the power of sequestration, we have abandoned for ever: every other article of the treaty of commerce is temporary; this perpetual.

I shall not enter into a discussion of the immorality of sequestering private property. What can be more immoral than war; or plundering on the high seas, legalized under the name of privateering? Yet self-defence justifies the first, and the necessity of the case may, at least in some instances, and where it is the only practicable mode of warfare left to a nation, apologize even for the last. In the same manner, the power of sequestration may be resorted to, as the last weapon of self-defence, rather than to seek redress by an appeal to arms. It is the last peace measure that can be taken by a nation; but the treaty, by declaring, that in case of national differences it shall not be resorted to, has deprived us of the power of judging of its propriety, has rendered it an act of hostility, and has effectually taken off that restraint, which a fear of its exercise laid upon Great Britain.

Thus it appears that by the treaty we have promised full compensation to England for

every possible claim they may have against us, that we have abandoned every claim of a doubtful nature, and that we have consented to receive the posts, our claim to which was not disputed, under new conditions and restrictions never before contemplated; that after having obtained by those concessions an adjustment of past differences, we have entered into a new agreement, unconnected with those objects, which have heretofore been subjects of discussion between the two nations; and that by this treaty of commerce and navigation, we have obtained no commercial advantage which we did not enjoy before, we have obtained no security against future aggressions, no security in favor of the freedom of our navigation, and we have parted with every pledge we had in our hands, with every power of restriction, with every weapon of self-defence which is calculated to give us any security. * * *

From the review I have taken of the treaty, and the opinions I have expressed, it is hardly necessary for me to add, that I look upon the instrument as highly injurious to the interests of the United States, and that I earnestly wish it never had been made; but whether in its

present stage the House ought to refuse to carry it into effect, and what will be the probable consequences of a refusal, is a question which requires the most serious attention, and which I will now attempt to investigate.

Should the treaty be finally defeated, either new negotiations will be more successful or Great Britain will refuse to make a new arrangement, and leave things in the situation in which they now are, or war will be the consequence. I will, in the course of my observations, make some remarks on the last supposition. I do not think that the first will be very probable at present, and I am of opinion that, under the present circumstances, and until some change takes place in our own or in the relative political situation of the European nations, it is to be apprehended that, in such a case, new negotiations will either be rejected or prove unsuccessful. Such an event might have perhaps followed a rejection of the treaty even by the Senate or by the President. After the negotiator employed by the United States had once affixed his signature it must have become very problematical, unless he had exceeded his powers, whether a refusal to sanction the contract he had made would not

eventually defeat, at least for a time, the prospect of a new treaty. I conceive that the hopes of obtaining better conditions by a new negotiation are much less in the present stage of the business than they were when the treaty was in its inchoate form before the Executive; and in order to form a just idea of the consequences of a rejection at present, I will contemplate them upon this supposition, which appears to me most probable, to wit, that no new treaty will take place for a certain period of time.

In mentioning my objections to the treaty itself, I have already stated the advantages which in my opinion would result to the United States from the non-existence of that instrument; I will not repeat, but proceed at once to examine what losses may accrue that can be set off against those advantages. * * *

The further detention of the posts, the national stain that will result from receiving no reparation for the spoliations on our trade, and the uncertainty of a final adjustment of our differences with Great Britain, are the three evils which strike me as resulting from a rejection of the treaty; and when to those considerations I add that of the present situation of

this country, of the agitation of the public mind, and of the advantages that will arise from union of sentiments, however injurious and unequal I conceive the treaty to be, however repugnant it may be to my feelings, and perhaps to my prejudices, I feel induced to vote for it, and will not give my assent to any proposition which will imply its rejection. But the conduct of Great Britain since the treaty was signed, the impressment of our seamen, and their uninterrupted spoliations on our trade, especially by seizing our vessels laden with provisions, a proceeding which they may perhaps justify by one of the articles of the treaty, are such circumstances as may induce us to pause awhile, in order to examine whether it is proper, immediately and without having obtained any explanation thereon, to adopt the resolution on the table, and to pass, at present, all the laws necessary to carry the treaty into effect. * * *

Whatever evils may follow a rejection of the treaty, they will not attend a postponement. To suspend our proceedings will not throw us into a situation which will require new negotiations, new arrangements on the points already settled and well understood by both

parties. It will be merely a delay, until an explanation of the late conduct of the British towards us may be obtained, or until that conduct may be altered. If, on the contrary, we consent to carry the treaty into effect, under the present circumstances, what will be our situation in future? It is by committing the most wanton and the most unprovoked aggressions on our trade; it is by seizing a large amount of our property as a pledge for our good behavior, that Great Britain has forced the nation into the present treaty. If by threatening new hostilities, or rather by continuing her aggressions, even after the treaty is made, she can force us also to carry it into effect, our acquiescence will be tantamount to a declaration that we mean to submit in proportion to the insults that are offered to us; and this disposition being once known, what security have we against new insults, new aggressions, new spoliations, which probably will lay the foundation of some additional sacrifices on ours? It has been said, and said with truth, that to put up with the indignities we have received without obtaining any reparation, which will probably be the effect of defeating the treaty, is highly dishonorable to the nation.

In my opinion it is still more so not only tamely to submit to a continuation of these national insults, but while they thus continue uninterrupted, to carry into effect the instrument we have consented to accept as a reparation for former ones. When the general conduct of Great Britain towards us from the beginning of the present war is considered; when the means by which she has produced the treaty are reflected on, a final compliance on our part while she still persists in that conduct, whilst the chastening rod of that nation is still held over us, is in my opinion a dereliction of national interest, of national honor, of national independence.

But it is said, that war must be the consequence of our delaying to carry the treaty into effect. Do the gentlemen mean, that if we reject the treaty, if we do not accept the reparation there given to us, in order to obtain redress, we have no alternative left but war? If we must go to war in order to obtain reparation for insults and spoliations on our trade, we must do it, even if we carry the present treaty into effect; for this treaty gives us no reparation for the aggressions committed since it was ratified, has not produced a discontinu-

ance of those acts of hostility, and gives us no security that they shall be discontinued. But the arguments of those gentlemen, who suppose that America must go to war, apply to a final rejection of the treaty, and not to a delay. I do not propose to refuse the reparation offered by the treaty, and to put up with the aggressions committed; I have agreed that that reparation, such as it is, is a valuable article of the treaty; I have agreed, that under the present circumstances, a greater evil will follow a total rejection of, than an acquiescence in, the treaty. The only measure which has been mentioned, in preference to the one now under discussion, is a suspension, a postponement, whilst the present spoliations continue, in hopes to obtain for them a similar reparation, and assurances that they shall cease.

But is it meant to insinuate that it is the final intention of those who pretend to wish only for a postponement, to involve this country in a war? There has been no period during the present European war, at which it would not have been equally weak and wicked to adopt such measures as must involve America in the contest, unless forced into it for the sake of self-defence; but, at this time, to think

of it would fall but little short of madness. The whole American nation would rise in opposition to the idea; and it might at least have been recollected, that war can not be declared, except by Congress, and that two of the branches of government are sufficient to check the other in any supposed attempt of this kind.

If there is no necessity imposed upon America to go to war, if there is no apprehension she will, by her own conduct, involve herself in one, the danger must arise from Great Britain, and the threat is, that she will make war against us if we do not comply. Gentlemen first tell us that we have made the best possible bargain with that nation; that she has conceded every thing, without receiving a single iota in return, and yet they would persuade us, that she will make war against us in order to force us to accept that contract so advantageous to us, and so injurious to herself. It will not be contended that a delay, until an amicable explanation is obtained, could afford even a pretence to Great Britain for going to war; and we all know that her own interest would prevent her. If another campaign takes place, it is acknowledged, that all her efforts are to be exerted

against the West Indies. She has proclaimed her own scarcity of provisions at home, and she must depend on our supplies to support her armament. It depends upon us to defeat her whole scheme, and this is a sufficient pledge against open hostility, if the European war continues. If peace takes place, there will not be even the appearance of danger; the moment when a nation is happy enough to emerge from one of the most expensive, bloody, and dangerous wars in which she ever has been involved, will be the last she would choose to plunge afresh into a similar calamity.

But to the cry of war, the alarmists do not fail to add that of confusion; and they have declared, even on this floor, that if the resolution is not adopted government will be dissolved. Government dissolved in case a postponement takes place! The idea is too absurd to deserve a direct answer. But I will ask those gentlemen, by whom is government to be dissolved? Certainly not by those who may vote against the resolution; for although they are not perhaps fortunate enough to have obtained the confidence of the gentlemen who voted against them, still it must be agreed, that those who succeed in their wishes, who defeat a measure

they dislike, will not wish to destroy that government, which they hold so far in their hands as to be able to carry their own measures. For them to dissolve government, would be to dissolve their own power. By whom, then, I again ask, is the government to be dissolved? The gentlemen must answer — by themselves—or they must declare that they mean nothing but to alarm. Is it really the language of those men, who profess to be, who distinguish themselves by the self-assumed appellation of friends to order, that if they do not succeed in all their measures they will overset government—and have all their professions been only a veil to hide their love of power, a pretence to cover their ambition? Do they mean, that the first event which shall put an end to their own authority shall be the last act of government? As to myself, I do not believe that they have such intentions; I have too good an opinion of their patriotism to allow myself to admit such an idea a single moment; but I think myself justifiable in entertaining a belief, that some amongst them, in order to carry a favorite, and what they think to be an advantageous measure, mean to spread an alarm which they do not feel; and I have no doubt, that many

have contracted such a habit of carrying every measure of government as they please, that they really think that every thing must be thrown into confusion the moment they are thwarted in a matter of importance. I hope that experience will in future cure their fears. But, at all events, be the wishes and intentions of the members of this House what they may, it is not in their power to dissolve the government. The people of the United States, from one end of the continent to the other, are strongly attached to their Constitution; they would restrain and punish the excesses of any party, of any set of men in government, who would be guilty of the attempt; and on them I will rest as a full security against every endeavor to destroy our Union, our Constitution, or our government. * * *

If the people of the United States wish this House to carry the treaty into effect immediately, and notwithstanding the continued aggressions of the British, if their will was fairly and fully expressed, I would immediately acquiesce; but since an appeal has been made to them, it is reasonable to suspend a decision until their sentiments are known. Till then I must follow my own judgment; and as I can-

not see that any possible evils will follow a delay, I shall vote against the resolution before the committee, in order to make room, either for that proposed by my colleague, Mr. Maclay, or for any other, expressed in any manner whatever, provided it embraces the object I have in view, to wit, the suspension of the final vote—a postponement of the laws necessary to carry the treaty into effect, until satisfactory assurances are obtained that Great Britain means, in future, to show us that friendly disposition which it is my earnest wish may at all times be cultivated by America towards all other nations.

FISHER AMES,*

OF MASSACHUSETTS.[1]

(BORN 1758, DIED 1808.)

ON THE BRITISH TREATY, HOUSE OF REPRESENTATIVES, APRIL 28, 1796.[2]

IT would be strange, that a subject, which has aroused in turn all the passions of the country, should be discussed without the interference of any of our own. We are men, and therefore not exempt from those passions; as citizens and representatives, we feel the interests that must excite them. The hazard of great interests cannot fail to agitate strong passions. We are not disinterested; it is impossible we should be dispassionate. The warmth of such feelings may becloud the judgment, and, for a time, pervert the understanding. But the public sensibility, and our own, has sharpened the spirit of inquiry, and given an animation to the debate. The public attention has been quickened to mark the progress of the

* For notes on Ames see Appendix, p. 359.

discussion, and its judgment, often hasty and erroneous on first impressions, has become solid and enlightened at last. Our result will, I hope, on that account, be safer and more mature, as well as more accordant with that of the nation. The only constant agents in political affairs are the passions of men. Shall we complain of our nature—shall we say that man ought to have been made otherwise? It is right already, because He, from whom we derive our nature, ordained it so; and because thus made and thus acting, the cause of truth and the public good is more surely promoted. * * *

The treaty is bad, fatally bad, is the cry. It sacrifices the interest, the honor, the independence of the United States, and the faith of our engagements to France. If we listen to the clamor of party intemperance, the evils are of a number not to be counted, and of a nature not to be borne, even in idea. The language of passion and exaggeration may silence that of sober reason in other places, it has not done it here. The question here is, whether the treaty be really so very fatal as to oblige the nation to break its faith. I admit that such a treaty ought not to be executed. I admit that self-

preservation is the first law of society, as well as of individuals. It would, perhaps, be deemed an abuse of terms to call that a treaty, which violates such a principle. I waive also, for the present, any inquiry, what departments shall represent the nation, and annul the stipulations of a treaty. I content myself with pursuing the inquiry, whether the nature of this compact be such as to justify our refusal to carry it into effect. A treaty is the promise of a nation. Now, promises do not always bind him that makes them. But I lay down two rules, which ought to guide us in this case. The treaty must appear to be bad, not merely in the petty details, but in its character, principle, and mass. And in the next place, this ought to be ascertained by the decided and general concurrence of the enlightened public.

I confess there seems to be something very like ridicule thrown over the debate by the discussion of the articles in detail. The undecided point is, shall we break our faith? And while our country and enlightened Europe, await the issue with more than curiosity, we are employed to gather piecemeal, and article by article, from the instrument, a justification for the deed by trivial calculations of commer-

cial profit and loss. This is little worthy of the subject, of this body, or of the nation. If the treaty is bad, it will appear to be so in its mass. Evil to a fatal extreme, if that be its tendency, requires no proof; it brings it. Extremes speak for themselves and make their own law. What if the direct voyage of American ships to Jamaica with horses or lumber, might net one or two *per centum* more than the present trade to Surinam; would the proof of the fact avail any thing in so grave a question as the violation of the public engagements? * * *

Why do they complain, that the West Indies are not laid open? Why do they lament, that any restriction is stipulated on the commerce of the East Indies? Why do they pretend, that if they reject this, and insist upon more, more will be accomplished? Let us be explicit —more would not satisfy. If all was granted, would not a treaty of amity with Great Britain still be obnoxious? Have we not this instant heard it urged against our envoy, that he was not ardent enough in his hatred of Great Britain? A treaty of amity is condemned because it was not made by a foe, and in the spirit of one. The same gentleman, at the same instant, repeats a very prevailing objec-

tion, that no treaty should be made with the enemy of France. No treaty, exclaim others, should be made with a monarch or a despot; there will be no naval security while those sea-robbers domineer on the ocean; their den must be destroyed; that nation must be extirpated.

I like this, sir, because it is sincerity. With feelings such as these, we do not pant for treaties. Such passions seek nothing, and will be content with nothing, but the destruction of their object. If a treaty left King George his island, it would not answer; not if he stipulated to pay rent for it. It has been said, the world ought to rejoice if Britain was sunk in the sea; if where there are now men and wealth and laws and liberty, there was no more than a sand bank for sea monsters to fatten on; a space for the storms of the ocean to mingle in conflict. * * *[5]

What is patriotism? Is it a narrow affection for the spot where a man was born? Are the very clods where we tread entitled to this ardent preference because they are greener? No, sir, this is not the character of the virtue, and it soars higher for its object. It is an extended self-love, mingling with all the enjoyments of life, and twisting itself with the minutest filaments of the heart. It is thus we obey

the laws of society, because they are the laws of virtue. In their authority we see, not the array of force and terror, but the venerable image of our country's honor. Every good citizen makes that honor his own, and cherishes it not only as precious, but as sacred. He is willing to risk his life in its defence, and is conscious that he gains protection while he gives it. For, what rights of a citizen will be deemed inviolable when a state renounces the principles that constitute their security? Or if his life should not be invaded, what would its enjoyments be in a country odious in the eyes of strangers and dishonored in his own? Could he look with affection and veneration to such a country as his parent? The sense of having one would die within him; he would blush for his patriotism, if he retained any, and justly, for it would be a vice. He would be a banished man in his native land. I see no exception to the respect that is paid among nations to the law of good faith. If there are cases in this enlightened period when it is violated, there are none when it is decried. It is the philosophy of politics, the religion of governments. It is observed by barbarians—a whiff of tobacco smoke, or a string of beads, gives not merely

binding force but sanctity to treaties. Even in Algiers, a truce may be bought for money, but when ratified, even Algiers is too wise, or too just, to disown and annul its obligation. Thus we see, neither the ignorance of savages, nor the principles of an association for piracy and rapine, permit a nation to despise its engagements. If, sir, there could be a resurrection from the foot of the gallows, if the victims of justice could live again, collect together and form a society, they would, however loath, soon find themselves obliged to make justice, that justice under which they fell, the fundamental law of their state. They would perceive, it was their interest to make others respect, and they would therefore soon pay some respect themselves, to the obligations of good faith.

It is painful, I hope it is superfluous, to make even the supposition, that America should furnish the occasion of this opprobrium. No, let me not even imagine, that a republican government, sprung, as our own is, from a people enlightened and uncorrupted, a government whose origin is right, and whose daily discipline is duty, can, upon solemn debate, make its option to be faithless—can dare to act what

despots dare not avow, what our own example evinces, the states of Barbary are unsuspected of. No, let me rather make the supposition, that Great Britain refuses to execute the treaty, after we have done every thing to carry it into effect. Is there any language of reproach pungent enough to express your commentary on the fact? What would you say, or rather what would you not say? Would you not tell them, wherever an Englishman might travel, shame would stick to him—he would disown his country. You would exclaim, England, proud of your wealth, and arrogant in the possession of power—blush for these distinctions, which become the vehicles of your dishonor. Such a nation might truly say to corruption, thou art my father, and to the worm, thou art my mother and my sister. We should say of such a race of men, their name is a heavier burden than their debt. * * *

The refusal of the posts (inevitable if we reject the treaty) is a measure too decisive in its nature to be neutral in its consequences. From great causes we are to look for great effects. A plain and obvious one will be, the price of the Western lands will fall. Settlers will not choose to fix their habitation on a field

of battle. Those who talk so much of the interest of the United States, should calculate how deeply it will be affected by rejecting the treaty; how vast a tract of wild land will almost cease to be property. This loss, let it be observed, will fall upon a fund expressly devoted to sink the national debt. What then are we called upon to do? However the form of the vote and the protestations of many may disguise the proceeding, our resolution is in substance, and it deserves to wear the title of a resolution to prevent the sale of the Western lands and the discharge of the public debt.

Will the tendency to Indian hostilities be contested by any one? Experience gives the answer. The frontiers were scourged with war till the negotiation with Great Britain was far advanced, and then the state of hostility ceased. Perhaps the public agents of both nations are innocent of fomenting the Indian war, and perhaps they are not. We ought not, however, to expect that neighboring nations, highly irritated against each other, will neglect the friendship of the savages; the traders will gain an influence and will abuse it; and who is ignorant that their passions are easily raised, and hardly restrained from violence? Their situation will oblige them

to choose between this country and Great Britain, in case the treaty should be rejected. They will not be our friends, and at the same time the friends of our enemies.

But am I reduced to the necesity of proving this point? Certainly the very men who charged the Indian war on the detention of the posts, will call for no other proof than the recital of their own speeches. It is remembered with what emphasis, with what acrimony, they expatiated on the burden of taxes, and the drain of blood and treasure into the Western country, in consequence of Britain's holding the posts. Until the posts are restored, they exclaimed, the treasury and the frontiers must bleed.

If any, against all these proofs, should maintain that the peace with the Indians will be stable without the posts, to them I urge another reply. From arguments calculated to produce conviction, I will appeal directly to the hearts of those who hear me, and ask, whether it is not already planted there? I resort especially to the convictions of the Western gentlemen, whether supposing no posts and no treaty, the settlers will remain in security? Can they take it upon them to say, that an Indian peace, under these circumstances, will prove firm? No, sir,

it will not be peace, but a sword; it will be no better than a lure to draw victims within the reach of the tomahawk.

On this theme my emotions are unutterable. If I could find words for them, if my powers bore any proportion to my zeal, I would swell my voice to such a note of remonstrance, it should reach every log-house beyond the mountains. I would say to the inhabitants, wake from your false security; your cruel dangers, your more cruel apprehensions are soon to be renewed; the wounds, yet unhealed, are to be torn open again; in the daytime, your path through the woods will be ambushed; the darkness of midnight will glitter with the blaze of your dwellings. You are a father—the blood of your sons shall fatten your cornfield; you are a mother—the war-whoop shall wake the sleep of the cradle.

On this subject you need not suspect any deception on your feelings. It is a spectacle of horror, which cannot be overdrawn. If you have nature in your hearts, it will speak a language, compared with which all I have said or can say will be poor and frigid.

Will it be whispered that the treaty has made me a new champion for the protection of

the frontiers? It is known that my voice as well as vote have been uniformly given in conformity with the ideas I have expressed. Protection is the right of the frontiers; it is our duty to give it.

Who will accuse me of wandering out of the subject? Who will say that I exaggerate the tendencies of our measures? Will any one answer by a sneer, that all this is idle preaching? Will any one deny, that we are bound, and I would hope to good purpose, by the most solemn sanctions of duty for the vote we give? Are despots alone to be reproached for unfeeling indifference to the tears and blood of their subjects? Have the principles on which you ground the reproach upon cabinets and kings no practical influence, no binding force? Are they merely themes of idle declamation introduced to decorate the morality of a newspaper essay, or to furnish petty topics of harangue from the windows of that state-house? I trust it is neither too presumptuous nor too late to ask. Can you put the dearest interest of society at risk without guilt and without remorse?

It is vain to offer as an excuse, that public men are not to be reproached for the evils that may happen to ensue from their measures.

This is very true where they are unforeseen or inevitable. Those I have depicted are not unforeseen; they are so far from inevitable, we are going to bring them into being by our vote. We choose the consequences, and become as justly answerable for them as for the measures that we know will produce them.

By rejecting the posts we light the savage fires—we bind the victims. This day we undertake to render account to the widows and orphans whom our decision will make, to the wretches that will be roasted at the stake, to our country, and I do not deem it too serious to say, to conscience and to God. We are answerable, and if duty be any thing more than a word of imposture, if conscience be not a bugbear, we are preparing to make ourselves as wretched as our country.

There is no mistake in this case—there can be none. Experience has already been the prophet of events, and the cries of future victims have already reached us. The Western inhabitants are not a silent and uncomplaining sacrifice. The voice of humanity issues from the shade of their wilderness. It exclaims that, while one hand is held up to reject this treaty, the other grasps a tomahawk. It summons

our imagination to the scenes that will open. It is no great effort of the imagination to conceive that events so near are already begun. I can fancy that I listen to the yells of savage vengeance, and the shrieks of torture. Already they seem to sigh in the west wind—already they mingle with every echo from the mountains.

It is not the part of prudence to be inattentive to the tendencies of measures. Where there is any ground to fear that these will prove pernicious, wisdom and duty forbid that we should underrate them. If we reject the treaty, will our peace be as safe as if we executed it with good faith? I do honor to the intrepid spirits of those who say it will. It was formerly understood to constitute the excellence of a man's faith to believe without evidence and against it.

But, as opinions on this article are changed, and we are called to act for our country, it becomes us to explore the dangers that will attend its peace, and to avoid them if we can. * * *

Is there any thing in the prospect of the interior state of the country to encourage us to aggravate the dangers of a war? Would not the shock of that evil produce another, and

shake down the feeble and then unbraced structure of our government? Is this a chimera? Is it going off the ground of matter of fact to say, the rejection of the appropriation proceeds upon the doctrine of a civil war of the departments? Two branches have ratified a treaty, and we are going to set it aside. How is this disorder in the machine to be rectified? While it exists its movements must stop, and when we talk of a remedy, is that any other than the formidable one of a revolutionary one of the people? And is this, in the judgment even of my opposers, to execute, to preserve the constitution and the public order? Is this the state of hazard, if not of convulsion, which they can have the courage to contemplate and to brave, or beyond which their penetration can reach and see the issue? They seem to believe, and they act as if they believed, that our union, our peace, our liberty, are invulnerable and immortal—as if our happy state was not to be disturbed by our dissentions, and that we are not capable of falling from it by our unworthiness. Some of them have, no doubt, better nerves and better discernment than mine. They can see the bright aspects and the happy consequences of all this

array of horrors. They can see intestine discords, our government disorganized, our wrongs aggravated, multiplied, and unredressed, peace with dishonor, or war without justice, union, or resources, in "the calm lights of mild philosophy."

But whatever they may anticipate as the next measure of prudence and safety, they have explained nothing to the house. After rejecting the treaty, what is to be the next step? They must have foreseen what ought to be done; they have doubtless resolved what to propose. Why then are they silent? Dare they not avow their plan of conduct, or do they wait till our progress toward confusion shall guide them in forming it?

Let me cheer the mind, weary, no doubt, and ready to despond on this prospect, by presenting another, which it is yet in our power to realize. Is it possible for a real American to look at the prosperity of this country without some desire for its continuance—without some respect for the measures which, many will say, produced, and all will confess, have preserved, it? Will he not feel some dread that a change of system will reverse the scene? The well-grounded fears of our citizens in 1794 were re-

moved by the treaty, but are not forgotten. Then they deemed war nearly inevitable, and would not this adjustment have been considered, at that day, as a happy escape from the calamity? The great interest and the general desire of our people, was to enjoy the advantages of neutrality. This instrument, however misrepresented, affords America that inestimable security. The causes of our disputes are either cut up by the roots, or referred to a new negotiation after the end of the European war. This was gaining every thing, because it confirmed our neutrality, by which our citizens are gaining every thing. This alone would justify the engagements of the government. For, when the fiery vapors of the war lowered in the skirts of our horizon, all our wishes were concentred in this one, that we might escape the desolation of the storm. This treaty, like a rainbow on the edge of the cloud, marked to our eyes the space where it was raging, and afforded, at the same time, the sure prognostic of fair weather. If we reject it, the vivid colors will grow pale,—it will be a baleful meteor portending tempest and war.

Let us not hesitate, then, to agree to the appropriation to carry it into faithful execution.

Thus we shall save the faith of our nation, secure its peace, and diffuse the spirit of confidence and enterprise that will augment its prosperity. The progress of wealth and improvement is wonderful, and, some will think, too rapid. The field for exertion is fruitful and vast, and if peace and good government should be preserved, the acquisitions of our citizens are not so pleasing as the proofs of their industry—as the instruments of their future success. The rewards of exertion go to augment its power. Profit is every hour becoming capital. The vast crop of our neutrality is all seed-wheat, and is sown again to swell, almost beyond calculation, the future harvest of prosperity. And in this progress, what seems to be fiction is found to fall short of experience.

I rose to speak under impressions that I would have resisted if I could. Those who see me will believe that the reduced state of my health has unfitted me, almost equally for much exertion of body or mind. Unprepared for debate, by careful reflection in my retirement, or by long attention here, I thought the resolution I had taken to sit silent, was imposed by necesity, and would cost me no effort to maintain. With a mind thus vacant of ideas,

and sinking, as I really am, under a sense of weakness, I imagined the very desire of speaking was extinguished by the persuasion that I had nothing to say. Yet, when I come to the moment of deciding the vote, I start back with dread from the edge of the pit into which we are plunging. In my view, even the minutes I have spent in expostulation have their value, because they protract the crisis, and the short period in which alone we may resolve to escape it.

I have thus been led, by my feelings, to speak more at length than I intended. Yet I have, perhaps, as little personal interest in the event as any one here. There is, I believe, no member who will not think his chance to be a witness of the consequences greater than mine. If, however, the vote shall pass to reject, and a spirit should rise, as it will, with the public disorders, to make confusion worse confounded, even I, slender and almost broken as my hold upon life is, may outlive the government and constitution of my country.[7]

JOHN NICHOLAS,*

OF VIRGINIA.[1]

(BORN 1763, DIED 1819.)

ON THE PROPOSED REPEAL OF THE SEDITION LAW—HOUSE OF REPRESENTATIVES, FEB. 25, 1799.[2]

MR. CHAIRMAN :

The Select Committee had very truly stated that only the second and third sections of the act are complained of; that the part of the law which punishes seditious acts is acquiesced in, and that the part which goes to restrain what are called seditious writings is alone the object of the petitions. This part of the law is complained of as being unwarranted by the Constitution, and destructive of the first principles of republican government. It is always justifiable, in examining the principle of a law, to inquire what other laws can be passed with equal reason, and to impute to it all the mischiefs for which it may be used as a precedent.

* For notes on Nicholas see Appendix, p. 362.

In this case, little inquiry is left for us to make, the arguments in favor of the law carrying us immediately and by inevitable consequence to absolute power over the press.

It is not pretended that the Constitution has given any express authority, which they claim, for passing this law, and it is claimed only as implied in that clause of the Constitution which says: "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."[1] It is clear that this clause was intended to be merely an auxiliary to the powers specially enumerated in the Constitution; and it must, therefore, be so construed as to aid them, and at the same time to leave the boundaries between the General Government and the State governments untouched. The argument by which the Select Committee have endeavored to establish the authority of Congress over the press is the following: "Congress has power to punish seditious combinations to resist the laws, and therefore Congress must have the power to punish false, scandalous, and malicious writings; be-

cause such writings render the Administration odious and contemptible among the people, and by doing so have a tendency to produce opposition to the laws." To make it support the construction of the committee, it should say that "Congress shall have power over all acts which are likely to produce acts which hinder the execution of," etc. Our construction confines the power of Congress to such acts as immediately interfere with the execution of the enumerated powers of Congress, because the power can only be necessary as well as proper when the acts would really hinder the execution. The construction of the committee extends the power of Congress to all acts which have a relation, ever so many degrees removed, to the enumerated powers, or rather to the acts which would hinder their execution. By our construction, the Constitution remains defined and limited, according to the plain intent and meaning of its framers; by the construction of the committee, all limitation is lost, and it may be extended over the different actions of life as speculative politicians may think fit. What has a greater tendency to fit men for insurrection and resistance to government than dissolute, immoral habits, at once destroying love of

order, and dissipating the fortune which gives an interest in society? The doctrine that Congress can punish any act which has a tendency to hinder the execution of the laws, as well as acts which do hinder it, will, therefore, clearly entitle them to assume a general guardianship over the morals of the people of the United States. Again, nothing can have a greater tendency to ensure obedience to law, and nothing can be more likely to check every propensity to resistance to government, than virtuous and wise education; therefore Congress must have power to subject all the youth of the United States to a certain system of education. It would be very easy to connect every sort of authority used by any government with the well-being of the General Government, and with as much reason as the committee had for their opinion, to assign the power to Congress, although the consequence must be the prostration of the State governments.

But enough has been said to show the necessity of adhering to the common meaning of the word "necessary" in the clause under consideration, which is, that the power to be assumed must be one without which some one of the enumerated powers cannot exist or be main-

tained. It cannot escape notice, however, that the doctrine contended for, that the Administration must be protected against writings which are likely to bring it into contempt, as tending to opposition, will apply with more force to truth than falsehood. It cannot be denied that the discovery of maladministration will bring more lasting discredit on the government of a country than the same charges would if untrue. This is not an alarm founded merely on construction, for the governments which have exercised control over the press have carried it the whole length. This is notoriously the law of England, whence this system has been drawn; for there truth and falsehood are alike subject to punishment, if the publication brings contempt on the officers of government. * * *

The law has been current by the fair pretence of punishing nothing but falsehood, and by holding out to the accused the liberty of proving the truth of the writing;' but it was from the first apprehended, and it seems now to be adjudged (the doctrine has certainly been asserted on this floor), that matters of opinion, arising on notorious facts, come under the law. If this is the case, where is the advantage of

the law requiring that the writing should be false before a man shall be liable to punishment, or of his having the liberty of proving the truth of his writing? Of the truth of facts there is an almost certain test; the belief of honest men is certain enough to entitle it to great confidence; but their opinions have no certainty at all. The trial of the truth of opinions, in the best state of society, would be altogether precarious; and perhaps a jury of twelve men could never be found to agree in any one opinion. At the present moment, when, unfortunately, opinion is almost entirely governed by prejudice and passion, it may be more decided, but nobody will say it is more respectable. Chance must determine whether political opinions are true or false, and it will not unfrequently happen that a man will be punished for publishing opinions which are sincerely his, and which are of a nature to be extremely interesting to the public, merely because accident or design has collected a jury of different sentiments. * * *

Is the power claimed proper for Congress to possess? It is believed not, and this will readily be admitted if it can be proved, as I think it can, that the persons who administer the gov-

ernment have an interest in the power to be confided opposed to that of the community. It must be agreed that the nature of our government makes a diffusion of knowledge of public affairs necessary and proper, and that the people have no mode of obtaining it but through the press. The necessity for their having this information results from its being their duty to elect all the parts of the Government, and, in this way, to sit in judgment over the conduct of those who have been heretofore employed. The most important and necessary information for the people to receive is that of the misconduct of the Government, because their good deeds, although they will produce affection and gratitude to public officers, will only confirm the existing confidence and will, therefore, make no change in the conduct of the people. The question, then, whether the Government ought to have control over the persons who alone can give information throughout a country is nothing more than this, whether men, interested in suppressing information necessary for the people to have, ought to be entrusted with the power, or whether they ought to have a power which their personal interest leads to the abuse of. I am sure no candid man will hesi-

tate about the answer; and it may also safely be left with ingenuous men to say whether the misconduct which we sometimes see in the press had not better be borne with, than to run the risk of confiding the power of correction to men who will be constantly urged by their own feelings to destroy its usefulness. * * * How long can it be desirable to have periodical elections for the purpose of judging of the conduct of our rulers, when the channels of information may be choked at their will?

But, sir, I have ever believed this question as settled by an amendment to the Constitution, proposed with others for declaring and restricting its powers, as the preamble declares, at the request of several of the States, made at the adoption of the Constitution, in order to prevent their misconstruction and abuse. This amendment is in the following words: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and petition the Government for a redress of grievances." There can be no doubt about the effect of this amendment, unless the "freedom of the press" means

something very different from what it seems; or unless there was some actual restraint upon it, under the Constitution of the United States, at the time of the adoption of this amendment, commensurate with that imposed by this law. Both are asserted, viz., that the "freedom of the press" has a defined, limited meaning, and that the restraints of the common law were in force under the United States, and are greater than those of the act of Congress, and that, therefore, either way the "freedom of the press" is not abridged.

It is asserted by the select committee, and by everybody who has gone before them in this discussion, that the "freedom of the press," according to the universally received acceptation of the expression, means only an exemption from all previous restraints on publication, but not an exemption from any punishment Government pleases to inflict for what is published. This definition does not at all distinguish between publications of different sorts, but leaves all to the regulation of the law, only forbidding Government to interfere until the publication is really made. The definition, if true, so reduces the effect of the amendment that the power of Congress is left unlimited

over the productions of the press, and they are merely deprived of one mode of restraint.

The amendment was certainly intended to produce some limitation to legislative discretion, and it must be construed so as to produce such an effect, if it is possible. * * * To give it such a construction as will bring it to a mere nullity would violate the strongest injunctions of common-sense and decorum, and yet that appears to me to be the effect of the construction adopted by the committee. * * * The effect of the amendment, say the committee, is to prevent Government taking the press from its owner; but how is their power lessened by this, when they may take the printer from his press and imprison him for any length of time, for publishing what they choose to prohibit, although it may be ever so proper for public information? The result is that Government may forbid any species of writing, true as well as false, to be published; may inflict the heaviest punishments they can devise for disobedience, and yet we are very gravely assured that this is the "freedom of the press." * * *

A distinction is very frequently relied on between the freedom and the licentiousness of the press, which it is proper to examine. This

seems to me to refute every other argument which is used on this subject; it amounts to an admission that there are some acts of the press which Congress ought not to have power to restrain, and that by the amendment they are prohibited to restrain these acts. Now, to justify any act of Congress, they ought to show the boundary between what is prohibited and what is permitted, and that the act is not within the prohibited class. The Constitution has fixed no such boundary, therefore they can pretend to no power over the press, without claiming the right of defining what is freedom and what is licentiousness, and that would be to claim a right which would defeat the Constitution; for every Congress would have the same right, and the freedom of the press would fluctuate according to the will of the legislature. This is, therefore, only a new mode of claiming absolute power over the press.

It is said there is a common law which makes part of the law of the United States, which restrained the press more than the act of Congress has done, and that therefore there is no abridgment of its freedom. What this common law is I cannot conceive, nor have I seen anybody who could explain himself when he

was talking of it. It certainly is not a common law of the United States, acquired, as that of England was, by immemorial usage. The standing of the Government makes this impossible. It cannot be a code of laws adopted because they were universally in use in the States, for the States had no uniform code; and, if they had, it could hardly become, by implication, part of the code of a Government of limited powers, from which every thing is expressly retained which is not given. Is it the law of England, at any particular period, which is adopted? But the nature of the law of England makes it impossible that it should have been adopted in the lump into such a Government as this is, because it was a complete system for the management of all the affairs of a country. It regulated estates, punished all crimes, and, in short, went to all things for which laws were necessary. But how was this law adopted? Was it by the Constitution? If so, it is immutable and incapable of amendment. In what part of the Constitution is it declared to be adopted? Was it adopted by the courts? From whom do they derive their authority? The Constitution, in the clause first cited, relies on Congress to pass all laws neces-

sary to enable the courts to carry their powers into execution; it cannot, therefore, have been intended to give them a power not necessary to their declared powers. There does not seem to me the smallest pretext for so monstrous an assumption; on the contrary, while the Constitution is silent about it, every fair inference is against it.

Upon the whole, therefore, I am fully satisfied that no power is given by the Constitution to control the press, and that such laws are expressly prohibited by the amendment. I think it inconsistent with the nature of our Government that its administration should have power to restrain animadversions on public measures, and for protection from private injury from defamation the States are fully competent. It is to them that our officers must look for protection of persons, estates, and every other personal right; and, therefore, I see no reason why it is not proper to rely upon it for defence against private libels.

III.

THE RISE OF DEMOCRACY.

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THE RISE OF DEMOCRACY.

THE inaugural address of President Jefferson has been given the first place under this period, notwithstanding the fact that it was not at all an oration. The inaugural addresses of presidents Washington and Adams were really orations, although written, depending for much of their effect on the personal presence of him who delivered the address; that of Jefferson was altogether a business document, sent to be read by the two houses of Congress for their information, and without any of the adjuncts of the orator.

It is impossible, nevertheless, to spare the inaugural address of the first Democratic President, for it is pervaded by a personality which, if quieter in its operation, was more potent in results than the most burning eloquence could

have been. The spirit of modern democracy, which has become, for good or evil, the common characteristic of all American parties and leaders, was here first put into living words. Triumphant in national politics, this spirit now had but one field of struggle, the politics of the States, and here its efforts were for years bent to the abolition of every remnant of limitation on individual liberty. Outside of New England, the change was accomplished as rapidly as the forms of law could be put into the necessary direction; remnants of ecclesiastical government, ecclesiastical taxes of even the mildest description, restrictions on manhood suffrage, State electoral systems, were the immediate victims of the new spirit, and the first term of Mr. Jefferson saw most of the States under democratic governments. Inside of New England, the change was stubbornly resisted, and, for a time, with success. For about twenty years, the general rule was that New England and Delaware were federalist, and the rest of the country was democratic. But even in New

England, a strong democratic minority was growing up, and about 1820 the last barriers of federalism gave way; Connecticut, the federalist "land of steady habits," accepted a new and democratic constitution; Massachusetts modified hers; and the new and reliably democratic State of Maine was brought into existence. The "era of good feeling" signalized the extinction of the federal party and the universal reign of democracy. The length of this period of contest is the strongest testimony to the stubbornness of the New England fibre. Estimated by States, the success of democracy was about as complete in 1803 as in 1817; but it required fifteen years of persistent struggle to convince the smallest section of the Union that it was hopelessly defeated.

The whole period was a succession of great events. The acquisition of Louisiana, stretching from the Mississippi to the Rocky Mountains, laid, in 1803, the foundations of that imperial domain which the steamboat and railroad were to convert to use in after-years. The con-

tinental empire of Napoleon and the island empire of Great Britain drifted into a struggle for life or death which hardly knew a breathing space until the last charge at Waterloo, and from the beginning it was conducted by both combatants with a reckless disregard of international public opinion and neutral rights which is hardly credible but for the official records. Every injury inflicted on neutral commerce by one belligerent was promptly imitated or exceeded by the other, and the two were perfectly in accord in insisting on the convenient doctrine of international law, that, unless neutral rights were enforced by the neutral against one belligerent, the injury became open to the imitation of the other. In the process of imitation, each belligerent took care to pass at least a little beyond the precedent; and thus, beginning with a paper blockade of the northern coast of the continent by the British Government, the process advanced, by alternate "retaliations," to a British proclamation specifying the ports of the world to which American ves-

sels were to be allowed to trade, stopping in England or its dependencies to pay taxes *en route*. These two almost contemporary events, the acquisition of Louisiana and the insolent pretensions of the European belligerents, were the central points of two distinct influences which bore strongly on the development of the United States.

The dominant party, the republicans, had a horror of a national debt which almost amounted to a mania. The associations of the term, derived from their reading of English history, all pointed to a condition of affairs in which the rise of a strong aristocracy was inevitable; and, to avoid the latter, they were determined to pay off the former. The payment for Louisiana precluded, in their opinion, the support of a respectable navy; and the remnants of colonialism in their party predisposed them to adopt an ostrich policy instead. The Embargo act was passed in 1807, forbidding all foreign commerce. The evident failure of this act to influence the belligerents brought about

its repeal in 1809, and the substitution of the Non-intercourse act. This prohibited commercial intercourse with England and France until either should revoke its injurious edicts. Napoleon, by an empty and spurious revocation in 1810, induced Congress to withdraw the act in respect to France, keeping it alive in respect to England. England refused to admit the sincerity of the French revocation, to withdraw her Orders in Council, or to cease impressing American seamen. The choice left to the United States was between war and submission

The federalist leaders saw that, while their party strength was confined to a continually decreasing territory, the opposing democracy not only had gained the mass of the original United States, but was swarming toward and beyond the Mississippi. They dropped to the level of a mere party of opposition; they went further until the only article of their political creed was State sovereignty; some of them went one step further, and dabbled in hopeless projects

for secession and the formation of a New England republic of five States. It is difficult to perceive any advantage to public affairs in the closing years of the federal party, except that, by impelling the democratic leaders to really national acts and sympathies, it unwittingly aided in the development of nationality from democracy.

If the essential characteristic of colonialism is the sense of dependence and the desire to imitate, democracy, at least in its earlier phases, begets the opposite qualities. The Congressional elections of 1810-11 showed that the people had gone further in democracy than their leaders. "Submission men" were generally defeated in the election; new leaders, like Clay, Calhoun, and Crawford, made the dominant party a war party, and forced the President into their policy; and the war of 1812 was begun. Its early defeats on land, its startling successes at sea, its financial straits, the desperation of the contest after the fall of Napoleon, and the brilliant victory which crowned its close, all

combined to raise the national feeling to the highest pitch; and the federalists, whose stock object of denunciation was "Mr. Madison's war," though Mr. Madison was about the most unwilling participant in it, came out of it under the ban of every national sympathy.

The speech of Mr. Quincy, in many points one of the most eloquent of our political history, will show the brightest phase of federalism at its lowest ebb. One can hardly compare it with that of Mr. Clay, which follows it, without noticing the national character of the latter, as contrasted with the lack of nationality of the former. It seems, also, that Mr. Clay's speech carries, in its internal characteristics, sufficient evidence of the natural forces which tended to make democracy a national power, and not a mere adjunct of State sovereignty, wherever the oblique influence of slavery was absent. For this reason, it has been taken as a convenient introduction to the topic which follows, the Rise of Nationality.

THOMAS JEFFERSON,*

OF VIRGINIA.[1]

(BORN 1743, DIED 1826.)

INAUGURAL ADDRESS OF THOMAS JEFFERSON, AS PRESIDENT OF THE UNITED STATES, MARCH 4, 1801.[2]

FRIENDS AND FELLOW-CITIZENS:

Called upon to undertake the duties of the first executive office of our country, I avail myself of the presence of that portion of my fellow-citizens which is here assembled, to express my grateful thanks for the favor with which they have been pleased to look toward me, to declare a sincere consciousness, that the task is above my talents, and that I approach it with those anxious and awful presentiments, which the greatness of the charge, and the weakness of my powers, so justly inspire. A rising nation, spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry, engaged in com-

* For notes on Jefferson see Appendix, p. 366.

merce with nations who feel power and forget right, advancing rapidly to destinies beyond the reach of mortal eye; when I contemplate these transcendent objects, and see the honor, the happiness, and the hopes of this beloved country committed to the issue and the auspices of this day, I shrink from the contemplation, and humble myself before the magnitude of the undertaking. Utterly, indeed, should I despair, did not the presence of many, whom I see here, remind me, that, in the other high authorities provided by our Constitution, I shall find resources of wisdom, of virtue, and of zeal, on which to rely under all difficulties. To you, then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked, amidst the conflicting elements of a troubled world.

During the contest of opinion through which we have passed, the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely, and to speak and to write what they think; but this being now decided by the

voice of the nation, announced according to the rules of the Constitution, all will of course arrange themselves under the will of the law, and unite in common efforts for the common good. All too will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate which would be oppression. Let us then, fellow-citizens, unite with one heart and one mind, let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things. And let us reflect, that having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little, if we countenance a political intolerance, as despotic, as wicked, and as capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long-lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared

by some, and less by others, and should divide opinions as to measures of safety; but every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans; we are all Federalists. If there be any among us who wish to dissolve this Union, or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated, where reason is left free to combat it. I know, indeed, that some honest men fear that a republican government cannot be strong; that this government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear, that this government, the world's best hope, may, by possibility, want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest government on earth. I believe it the only one where every man, at the call of the law, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said, that man cannot be trusted with the government of himself. Can

he then be trusted with the government of others? Or, have we found angels in the form of kings, to govern him? Let history answer this question.

Let us then, with courage and confidence, pursue our own federal and republican principles; our attachment to union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure the degradation of the others, possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation, entertaining a due sense of our equal right to the use of our own faculties, to the acquisition of our own industry, to honor and confidence from our fellow-citizens, resulting not from birth, but from our actions and their sense of them, enlightened by a benign religion, professed indeed and practised in various forms, yet all of them inculcating honesty, truth, temperance, gratitude, and the love of man, acknowledging and adoring an overruling Providence, which, by all its dispensations, proves that it delights in the happiness of man here, and his greater happiness hereafter; with all these blessings, what more is necessary to

make us a happy and prosperous people? Still one thing more, fellow-citizens, a wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government; and this is necessary to close the circle of our felicities.

About to enter, fellow-citizens, upon the exercise of duties which comprehend every thing dear and valuable to you, it is proper you should understand what I deem the essential principles of our government, and consequently, those which ought to shape its administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none; the support of the State governments in all their rights, as the most competent administrations for our domestic concerns, and the surest bulwarks against anti-republican tendencies; the preser

vation of the general government in its whole constitutional vigor, as the sheet-anchor of our peace at home and safety abroad; a jealous care of the right of election by the people, a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority, the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism; a well-disciplined militia, our best reliance in peace, and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense, that labor may be lightly burdened; the honest payment of our debts, and sacred preservation of the public faith; encouragement of agriculture, and of commerce as its handmaid; the diffusion of information, and arraignment of all abuses at the bar of the public reason; freedom of religion, freedom of the press, and freedom of person, under the protection of the *habeas corpus*, and trial by juries impartially selected. These principles form the bright constellation, which has gone before us, and guided our steps through an age of revolu-

tion and reformation. The wisdom of our sages, and blood of our heroes, have been devoted to their attainment; they should be the creed of our political faith, the text of civic instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps, and to regain the road which alone leads to peace, liberty, and safety.

I repair, then, fellow-citizens, to the post you have assigned me. With experience enough in subordinate offices to have seen the difficulties of this, the greatest of all, I have learned to expect that it will rarely fall to the lot of imperfect man, to retire from this station with the reputation and the favor which bring him into it. Without pretensions to that high confidence you reposed in our first and greatest revolutionary character, whose pre-eminent services had entitled him to the first place in his country's love, and destined for him the fairest page in the volume of faithful history, I ask so much confidence only as may give firmness and effect to the legal administration of your affairs. I shall often go wrong through defect of judgment. When right, I shall often be

thought wrong by those whose positions will not command a view of the whole ground. I ask your indulgence for my own errors, which will never be intentional; and your support against the errors of others, who may condemn what they would not, if seen in all its parts. The approbation implied by your suffrage, is a great consolation to me for the past; and my future solicitude will be, to retain the good opinion of those who have bestowed it in advance, to conciliate that of others, by doing them all the good in my power, and to be instrumental to the happiness and freedom of all.

Relying then on the patronage of your good-will, I advance with obedience to the work, ready to retire from it whenever you become sensible how much better choices it is in your power to make. And may that infinite Power which rules the destinies of the universe, lead our councils to what is best, and give them a favorable issue for your peace and prosperity.

JOHN RANDOLPH,*

OF VIRGINIA.[1]

(BORN 1773, DIED 1833.)

ON THE MILITIA BILL—HOUSE OF REPRESENTATIVES, DEC. 10, 1811.[2]

MR. SPEAKER :

This is a question, as it has been presented to this House, of peace or war. In that light it has been argued; in no other light can I consider it, after the declarations made by members of the Committee of Foreign Relations * * *

The Committee of Foreign Relations have, indeed, decided that the subject of arming the militia (which has been pressed upon them as indispensable to the public security) does not come within the scope of their authority. On what ground, I have been, and still am, unable to see, they have felt themselves authorized to recommend the raising of standing armies, with a view (as has been declared) of immediate war

* For notes on Randolph see Appendix, p. 368.

—a war not of defence, but of conquest, of aggrandizement, of ambition—a war foreign to the interests of this country; to the interests of humanity itself. * * *[3]

I cannot refrain from smiling at the liberality of the gentleman in giving Canada to New York in order to strengthen the northern balance of power; while, at the same time, he forewarns her that the western scale must preponderate.[4] I can almost fancy that I see the Capitol in motion toward the falls of Ohio; after a short sojourn, taking its flight to the Mississippi, and finally alighting at Darien, which, when the gentleman's dreams are realized, will be a most eligible seat of government for the new republic (or empire) of the two Americas! But it seems that in 1808 we talked and acted foolishly, and to give some color of consistency to that folly we must now commit a greater.

I hope we shall act a wise part; take warning by our follies since we have become sensible of them, and resolve to talk and act foolishly no more. It is, indeed, high time to give over such preposterous language and proceedings. This war of conquest, a war for the acquisition of territory and subjects, is to be a new com-

mentary on the doctrine that republicans are destitute of ambition; that they are addicted to peace, wedded to the happiness and safety of the great body of their people. But it seems this is to be a holiday campaign; there is to be no expense of blood, or of treasure on our part; Canada is to conquer herself; she is to be subdued by the principles of fraternity! The people of that country are first to be seduced from their allegiance and converted into traitors, as preparatory to making them good citizens! Although I must acknowledge that some of our flaming patriots were thus manufactured, I do not think the process would hold good with a whole community. It is a dangerous experiment. We are to succeed in the French mode, by the system of fraternization—all is French. But how dreadfully it might be retorted on the southern and western slave-holding States. I detest this subornation of treason. No; if we must have them, let them fall by the valor of our arms; by fair, legitimate conquest; not become the victims of treacherous seduction.

I am not surprised at the war spirit which is manifesting itself in gentlemen from the South. In the year 1805–6, in a struggle for the carrying trade of belligerent colonial produce, this country

was most unwisely brought into collision with the great powers of Europe. By a series of most impolitic aud ruinous measures, utterly incomprehensible to every rational, sober-minded man, the Southern planters, by their own votes, have succeeded in knocking down the price of cotton to seven cents, and of tobacco (a few choice crops excepted) to nothing; and in raising the price of blankets (of which a few would not be amiss in a Canadian campaign), coarse woollens, and every article of first necessity, three or four hundred *per centum*. And now, that by our own acts, we have brought ourselves into this unprecedented condition, we must get out of it in any way, but by an acknowledgment of our own want of wisdom and forecast. But is war the true remedy? Who will profit by it? Speculators; a few lucky merchants, who draw prizes in the lottery; commissaries and contractors. Who must suffer by it? The people. It is their blood, their taxes that must flow to support it. * * *[5]

I am gratified to find gentlemen acknowledging the demoralizing and destructive consequences of the non-importation law;[6] confessing the truth of all that its opponents foretold,

when it was enacted. And will you plunge yourselves in war, because you have passed a foolish and ruinous law, and are ashamed to repeal it? "But our good friend, the French emperor, stands in the way of its repeal, and we cannot go too far in making sacrifices to him, who has given such demonstration of his love for the Americans; we must, in point of fact, become parties to his war. Who can be so cruel as to refuse him that favor?" My imagination shrinks from the miseries of such a connection. I call upon the House to reflect, whether they are not about to abandon all reclamation for the unparalleled outrages, "insults, and injuries" of the French government; to give up our claim for plundered millions; and I ask what reparation or atonement they can expect to obtain in hours of future dalliance, after they shall have made a tender of their person to this great deflowerer of the virginity of republics. We have, by our own wise (I will not say wiseacre) measures, so increased the trade and wealth of Montreal and Quebec, that at last we begin to cast a wistful eye at Canada. Having done so much toward its improvement, by the exercise of "our restrictive energies," we begin to think the laborer worthy

of his hire, and to put in a claim for our portion. Suppose it ours, are we any nearer to our point? As his minister said to the king of Epirus, "May we not as well take our bottle of wine before as after this exploit?" Go! march to Canada! leave the broad bosom of the Chesapeake and her hundred tributary rivers; the whole line of sea-coast from Machias to St. Mary's, unprotected! You have taken Quebec —have you conquered England? Will you seek for the deep foundations of her power in the frozen deserts of Labrador?

> "Her march is on the mountain wave,
> Her home is on the deep!"

Will you call upon her to leave your ports and harbors untouched only just till you can return from Canada, to defend them? The coast is to be left defenceless, while men of the interior are revelling in conquest and spoil. * * *

No sooner was the report laid on the table, than the vultures were flocking around their prey—the carcass of a great military establishment. Men of tainted reputation, of broken fortune (if they ever had any), and of battered constitutions, "choice spirits tired of the dull pursuits of civil life," were seeking after agen-

cies and commissions, willing to doze in gross stupidity over the public fire; to light the public candle at both ends. Honorable men undoubtedly there are ready to serve their country; but what man of spirit, or of self-respect, will accept a commission in the present army? The gentleman from Tennessee (Mr. Grundy) addressed himself yesterday exclusively to the "Republicans of the House." I know not whether I may consider myself as entitled to any part of the benefit of the honorable gentleman's discourse. It belongs not, however, to that gentleman to decide. If we must have an exposition of the doctrines of republicanism, I shall receive it from the fathers of the church, and not from the junior apprentices of the law. I shall appeal to my worthy friends from Carolina (Messrs. Macon and Stanford), "men with whom I have measured my strength," by whose side I have fought during the reign of terror; for it was indeed an hour of corruption, of oppression, of pollution. It was not at all to my taste—that sort of republicanism which was supported, on this side of the Atlantic, by the father of the sedition law, John Adams, and by Peter Porcupine on the other. Republicanism! of John Adams and William Cobbett! * * *

Gallant crusaders in the holy cause of republicanism. Such "republicanism does, indeed, mean any thing or nothing." Our people will not submit to be taxed for this war of conquest and dominion. The government of the United States was not calculated to wage offensive foreign war; it was instituted for the common defence and the general welfare; and whosoever should embark it in a war of offence, would put it to a test which it is by no means calculated to endure. Make it out that Great Britain has instigated the Indians on a late occasion, and I am ready for battle, but not for dominion. I am unwilling, however, under present circumstances, to take Canada, at the risk of the Constitution, to embark in a common cause with France, and be dragged at the wheels of the car of some Burr or Bonaparte. For a gentleman from Tennessee, or Genesee, or Lake Champlain, there may be some prospect of advantage. Their hemp would bear a great price by the exclusion of foreign supply. In that, too, the great importers are deeply interested. The upper country of the Hudson and the lakes would be enriched by the supplies for the troops, which they alone could furnish. They would have the exclusive market; to say nothing of

the increased preponderance from the acquisition of Canada and that section of the Union, which the Southern and Western States have already felt so severely in the Apportionment bill. * * *

Permit me now, sir, to call your attention to the subject of our black population. I will touch this subject as tenderly as possible. It is with reluctance that I touch it at all; but in cases of great emergency, the State physician must not be deterred by a sickly, hysterical humanity, from probing the wound of his patient; he must not be withheld by a fastidious and mistaken delicacy from representing his true situation to his friends, or even to the sick man himself, when the occasion calls for it. What is the situation of the slave-holding States? During the war of the Revolution, so fixed were their habits of subordination, that while the whole country was overrun by the enemy, who invited them to desert, no fear was ever entertained of an insurrection of the slaves. During a war of seven years, with our country in possession of the enemy, no such danger was ever apprehended. But should we, therefore, be unobservant spectators of the progress of society within the last twenty years; of the

silent but powerful change wrought, by time and chance, upon its composition and temper? When the fountains of the great deep of abomination were broken up, even the poor slaves did not escape the general deluge. The French Revolution has polluted even them. * * *

Men, dead to the operation of moral causes, have taken away from the poor slave his habit of loyalty and obedience to his master, which lightened his servitude by a double operation; beguiling his own cares and disarming his master's suspicions and severity; and now, like true empirics in politics, you are called upon to trust to the mere physical strength of the fetter which holds him in bondage. You have deprived him of all moral restraint; you have tempted him to eat of the fruit of the tree of knowledge, just enough to perfect him in wickedness; you have opened his eyes to his nakedness; you have armed his nature against the hand that has fed, that has clothed him, that has cherished him in sickness; that hand which before he became a pupil of your school, he had been accustomed to press with respectful affection. You have done all this—and then show him the gibbet and the wheel, as incentives to a sullen, repugnant obedience. God

forbid, sir, that the Southern States should ever see an enemy on their shores, with these infernal principles of French fraternity in the van. While talking of taking Canada, some of us are shuddering for our own safety at home. I speak from facts, when I say, that the night-bell never tolls for fire in Richmond, that the mother does not hug her infant more closely to her bosom. I have been a witness of some of the alarms in the capital of Virginia. * * *[10]

Against whom are these charges brought? Against men, who in the war of the Revolution were in the councils of the nation, or fighting the battles of your country. And by whom are they made? By runaways chiefly from the British dominions, since the breaking out of the French troubles. It is insufferable. It cannot be borne. It must and ought, with severity, to be put down in this House; and out of it to meet the lie direct. We have no fellow-feeling for the suffering and oppressed Spaniards! Yet even them we do not reprobate. Strange! that we should have no objection to any other people or government, civilized or savage, in the whole world! The great autocrat of all the Russias receives the homage of our high consideration. The Dey of Algiers

and his divan of pirates are very civil, good sort of people, with whom we find no difficulty in maintaining the relations of peace and amity. "Turks, Jews, and infidels"; Melimelli or the Little Turtle; barbarians and savages of every clime and color, are welcome to our arms. With chiefs of banditti, negro or mulatto, we can treat and trade. Name, however, but England, and all our antipathies are up in arms against her. Against whom? Against those whose blood runs in our veins; in common with whom, we claim Shakespeare, and Newton, and Chatham, for our countrymen; whose form of government is the freest on earth, our own only excepted; from whom every valuable principle of our own institutions has been borrowed—representation, jury trial, voting the supplies, writ of habeas corpus, our whole civil and criminal jurisprudence;—against our fellow Protestants, identified in blood, in language, in religion, with ourselves. In what school did the worthies of our land, the Washingtons, Henrys, Hancocks, Franklins, Rutledges of America, learn those principles of civil liberty which were so nobly asserted by their wisdom and valor? American reistance to British usurpation has not been more warmly cherished

by these great men and their compatriots; not more by Washington, Hancock, and Henry, than by Chatham and his illustrious associates in the British Parliament. It ought to be remembered, too, that the heart of the English people was with us. It was a selfish and corrupt ministry, and their servile tools, to whom we were not more opposed than they were. I trust that none such may ever exist among us; for tools will never be wanting to subserve the purposes, however ruinous or wicked, of kings and ministers of state. I acknowledge the influence of a Shakespeare and a Milton upon my imagination, of a Locke upon my understanding, of a Sidney upon my political principles, of a Chatham upon qualities which, would to God I possessed in common with that illustrious man! of a Tillotson, a Sherlock, and a Porteus upon my religion. This is a British influence which I can never shake off. I allow much to the just and honest prejudices growing out of the Revolution. But by whom have they been suppressed, when they ran counter to the interests of my country? By Washington. By whom, would you listen to them, are they most keenly felt? By felons escaped from the jails of Paris, Newgate, and Kilmainham, since the

breaking out of the French Revolution; who, in this abused and insulted country, have set up for political teachers, and whose disciples give no other proof of their progress in republicanism, except a blind devotion to the most ruthless military despotism that the world ever saw. These are the patriots, who scruple not to brand with the epithet of Tory, the men (looking toward the seat of Col. Stewart) by whose blood your liberties have been cemented. These are they, who hold in such keen remembrance the outrages of the British armies, from which many of them are deserters. Ask these self-styled patriots where they were during the American war (for they are, for the most part, old enough to have borne arms), and you strike them dumb; their lips are closed in eternal silence. If it were allowable to entertain partialities, every consideration of blood, language, religion, and interest, would incline us toward England: and yet, shall they alone be extended to France and her ruler, whom we are bound to believe a chastening God suffers as the scourge of a guilty world! On all other nations he tramples; he holds them in contempt; England alone he hates; he would, but he cannot, despise her; fear cannot despise; and shall we disparage our ancestors?

But the outrages and injuries of England—bred up in the principles of the Revolution—I can never palliate, much less defend them. I well remember flying, with my mother and her new-born child, from Arnold and Philips; and we were driven by Tarleton and other British Pandours from pillar to post, while her husband was fighting the battles of his country. The impression is indelible on my memory; and yet (like my worthy old neighbor, who added seven buckshot to every cartridge at the battle of Guilford, and drew fine sight at his man) I must be content to be called a Tory by a patriot of the last importation. Let us not get rid of one evil (supposing it possible) at the expense of a greater; *mutatis mutandis*, suppose France in possession of the British naval power—and to her the trident must pass should England be unable to wield it—what would be your condition? What would be the situation of your seaports, and their seafaring inhabitants? Ask Hamburg, Lubec! Ask Savannah! * * *"

Shall republicans become the instruments of him who has effaced the title of Attila to the "scourge of God!" Yet, even Attila, in the falling fortunes of civilization, had, no doubt, his advocates, his tools, his minions, his para-

sites, in the very countries that he overran; sons of that soil whereon his horse had trod; where grass could never after grow. If perfectly fresh, instead of being as I am, my memory clouded, my intellect stupefied, my strength and spirits exhausted, I could not give utterance to that strong detestation which I feel toward (above all other works of the creation) such characters as Gengis, Tamerlane, Kouli-Khan, or Bonaparte. My instincts involuntarily revolt at their bare idea. Malefactors of the human race, who have ground down man to a mere machine of their impious and bloody ambition! Yet under all the accumulated wrongs, and insults, and robberies of the last of these chieftains, are we not, in point of fact, about to become a party to his views, a partner in his wars? * * *[12]

I call upon those professing to be republicans to make good the promises, held out by their republican predecessors, when they came into power; promises which, for years afterward, they honestly, faithfully fulfilled. We have vaunted of paying off the national debt, of retrenching useless establishments; and yet have now become as infatuated with standing armies, loans, taxes, navies, and war as ever were the Essex Junto!

JOSIAH QUINCY,*

OF MASSACHUSETTS.[1]

(BORN 1772, DIED 1864.)

ON THE ADMISSION OF LOUISIANA[2]—HOUSE OF REPRESENTATIVES, JAN. 14, 1811.

MR. SPEAKER:

I address you, sir, with anxiety and distress of mind, with me, wholly unprecedented. The friends of this bill seem to consider it as the exercise of a common power; as an ordinary affair; a mere municipal regulation, which they expect to see pass without other questions than those concerning details. But, sir, the principle of this bill materially affects the liberties and rights of the whole people of the United States. To me it appears that it would justify a revolution in this country; and that, in no great length of time it may produce it. When I see the zeal and perseverance with which this bill has been urged along its parliamentary path, when I know the local interests and associ-

* For notes on Quincy see Appendix, p. 372.

ated projects which combine to promote its success, all opposition to it seems manifestly unavailing. I am almost tempted to leave, without a struggle, my country to its fate. But, sir, while there is life, there is hope. So long as the fatal shaft has not yet sped, if Heaven so will, the bow may be broken and the vigor of the mischief-meditating arm withered. If there be a man in this House or nation, who cherishes the Constitution, under which we are assembled, as the chief stay of his hope, as the light which is destined to gladden his own day, and to soften even the gloom of the grave, by the prospects it sheds over his children, I fall not behind him in such sentiments. I will yield to no man in attachment to this Constitution, in veneration for the sages who laid its foundations, in devotion to those principles which form its cement and constitute its proportions. What then must be my feelings; what ought to be the feelings of a man, cherishing such sentiments, when he sees an act contemplated which lays ruin at the foot of all these hopes? When he sees a principle of action about to be usurped, before the operation of which the bands of this Constitution are no more than flax before the fire, or stubble be-

fore the whirlwind? When this bill passes, such an act is done; and such a principle is usurped.

Mr. Speaker, there is a great rule of human conduct, which he who honestly observes, cannot err widely from the path of his sought duty. It is, to be very scrupulous concerning the principles you select as the test of your rights and obligations; to be very faithful in noticing the result of their application; and to be very fearless in tracing and exposing their immediate effects and distant consequences. Under the sanction of this rule of conduct, I am compelled to declare *it as my deliberate opinion, that, if this bill passes, the bonds of this union are, virtually, dissolved; that the States which compose it are free from their moral obligations, and that as it will be the right of all, so it will be the duty of some, to prepare, definitely, for a separation: amicably, if they can; violently, if they must.*[3]

(Mr. Quincy was here called to order by Mr. Poindexter, delegate from the Mississippi territory, for the words in italics. After it was decided, upon an appeal to the House, that Mr. Quincy was in order, he proceeded.)

I rejoice, Mr. Speaker, at the result of this appeal. Not from any personal consideration, but from the respect paid to the essential rights

of the people, in one of their representatives. When I spoke of the separation of the States, as resulting from the violation of the Constitution contemplated in this bill, I spoke of it as a necessity, deeply to be deprecated; but as resulting from causes so certain and obvious as to be absolutely inevitable, when the effect of the principle is practically experienced. It is to preserve, to guard the Constitution of my country, that I denounce this attempt. I would rouse the attention of gentlemen from the apathy with which they seem beset. These observations are not made in a corner; there is no low intrigue; no secret machination. I am on the people's own ground; to them I appeal concerning their own rights, their own liberties, their own intent, in adopting this Constitution. The voice I have uttered, at which gentlemen startle with such agitation, is no unfriendly voice. I intended it as a voice of warning. By this people, and by the event, if this bill passes, I am willing to be judged, whether it be not a voice of wisdom.

The bill which is now proposed to be passed has this assumed principle for its basis; that the three branches of this national government, without recurrence to conventions of the peo-

ple in the States, or to the Legislatures of the States, are authorized to admit new partners to a share of the political power, in countries out of the original limits of the United States. Now, this assumed principle, I maintain to be altogether without any sanction in the Constitution. I declare it to be a manifest and atrocious usurpation of power; of a nature, dissolving, according to undeniable principles of moral law, the obligations of our national compact; and leading to all the awful consequences which flow from such a state of things. Concerning this assumed principle, which is the basis of this bill, this is the general position, on which I rest my argument; that if the authority, now proposed to be exercised, be delegated to the three branches of the government by virtue of the Constitution, it results either from its general nature, or from its particular provisions. I shall consider distinctly both these sources, in relation to this pretended power.

Touching the general nature of the instrument called the Constitution of the United States there is no obscurity; it has no fabled descent, like the palladium of ancient Troy, from the heavens. Its origin is not confused by the mists of time, or hidden by the darkness

of passed, unexplored ages; it is the fabric of our day. Some now living, had a share in its construction; all of us stood by, and saw the rising of the edifice. There can be no doubt about its nature. It is a political compact.' By whom? And about what? The preamble to the instrument will answer these questions.

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution, for the United States of America."

It is, we the people of the United States, for ourselves and our posterity; not for the people of Louisana; nor for the people of New Orleans or of Canada. None of these enter into the scope of the instrument; it embraces only "the United States of America." Who these are, it may seem strange in this place to inquire. But truly, sir, our imaginations have, of late, been so accustomed to wander after new settlements to the very ends of the earth, that it will not be time ill spent to inquire what this phrase means, and what it includes. These are

not terms adopted at hazard; they have reference to a state of things existing anterior to the Constitution. When the people of the present United States began to contemplate a severance from their parent State, it was a long time before they fixed definitely the name by which they would be designated. In 1774, they called themselves "the Colonies and Provinces of North America." In 1775, "the Representatives of the United Colonies of North America." In the Declaration of Independence, "the Representatives of the United States of America." And finally, in the articles of confederation, the style of the confederacy is declared to be "the United States of America." It was with reference to the old articles of confederation, and to preserve the identity and established individuality of their character, that the preamble to this Constitution, not content, simply, with declaring that it is "we the people of the United States," who enter into this compact, adds that it is for "the United States of America." Concerning the territory contemplated by the people of the United States, in these general terms, there can be no dispute; it is settled by the treaty of peace, and included within the Atlantic Ocean, the St. Croix, the

lakes, and more precisely, so far as relates to the frontier, having relation to the present argument, within "a line to be drawn through the middle of the river Mississippi, until it intersect the northernmost part of the thirty-first degree of north latitude, thence within a line drawn due east on this degree of latitude to the river Apalachicola, thence along the middle of this river to its junction with the Flint River, thence straight to the head of the St. Mary's River, and thence down the St. Mary's to the Atlantic Ocean."

I have been thus particular to draw the minds of gentlemen, distinctly, to the meaning of the terms used in the preamble; to the extent which "the United States" then included; and to the fact, that neither New Orleans, nor Louisiana, was within the comprehension of the terms of this instrument. It is sufficient for the present branch of my argument to say, that there is nothing, in the general nature of this compact, from which the power, contemplated to be exercised in this bill, results. On the contrary, as the introduction of a new associate in political power implies, necessarily, a new division of power, and consequent diminution of the relative proportion of the former proprietors

of it, there can, certainly, be nothing more obvious, than that from the general nature of the instrument no power can result to diminish and give away, to strangers, any proportion of the rights of the original partners. If such a power exist, it must be found, then, in the particular provisions in the Constitution. The question now arising is, in which of these provisions is given the power to admit new States, to be created in territories beyond the limits of the old United States. If it exist anywhere, it is either in the third section of the fourth article of the Constitution, or in the treaty-making power. If it result from neither of these, it is not pretended to be found anywhere else.

That part of the third section of the fourth article, on which the advocates of this bill rely, is the following: "New States may be admitted by the Congress, into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress."

I know, Mr. Speaker, that the first clause of this paragraph has been read, with all the su-

perciliousness of a grammarian's triumph—"New States may be admitted by the Congress into this Union,"—accompanied with this most consequential inquiry: "Is not this a new State to be admitted? And is there not here an express authority?" I have no doubt this is a full and satisfactory argument to every one who is content with the mere colors and superficies of things. And if we were now at the bar of some stall-fed justice, the inquiry would insure the victory to the maker of it, to the manifest delight of the constables and suitors of his court. But, sir, we are now before the tribunal of the whole American people; reasoning concerning their liberties, their rights, their Constitution. These are not to be made the victims of the inevitable obscurity of general terms; nor the sport of verbal criticism. The question is concerning the intent of the American people, the proprietors of the old United States, when they agreed to this article. Dictionaries and spelling-books are here of no authority. Neither Johnson, nor Walker, nor Webster, nor Dilworth, has any voice in this matter. Sir, the question concerns the proportion of power reserved, by this Constitution, to every State in this Union. Have the three branches of this

government a right, at will, to weaken and outweigh the influence, respectively secured to each State in this compact, by introducing, at pleasure, new partners, situate beyond the old limits of the United States? The question has not relation merely to New Orleans. The great objection is to the principle of the bill. If this principle be admitted, the whole space of Louisiana, greater, it is said, than the entire extent of the old United States, will be a mighty theatre, in which this government assumes the right of exercising this unparalleled power. And it will be; there is no concealment, it is intended to be exercised. Nor will it stop until the very name and nature of the old partners be overwhelmed by new-comers into the confederacy. Sir, the question goes to the very root of the power and influence of the present members of this Union. The real intent of this article, is, therefore, an injury of most serious import; and is to be settled only by a recurrence to the known history and known relations of this people and their Constitution. These, I maintain, support this position, that the terms "new States," in this article, do not intend new political sovereignties, with territorial annexations, to be created without the original limits of the United States. * * *

But there is an argument stronger even than all those which have been produced, to be drawn from the nature of the power here proposed to be exercised. Is it possible that such a power, if it had been intended to be given by the people, should be left dependent upon the effect of general expressions, and such, too, as were obviously applicable to another subject, to a particular exigency contemplated at that time? Sir, what is this power we propose now to usurp? Nothing less than a power changing all the proportions of the weight and influence possessed by the potent sovereignties composing this Union. A stranger is to be introduced to an equal share without their consent. Upon a principle pretended to be deduced from the Constitution, this government, after this bill passes, may and will multiply foreign partners in power at its own mere motion; at its irresponsible pleasure; in other words, as local interests, party passions, or ambitious views may suggest. It is a power that from its nature never could be delegated; never was delegated; and as it breaks down all the proportions of power guaranteed by the Constitution to the States, upon which their essential security depends, utterly annihilates the moral force of this

political conduct. Would this people, so wisely vigilant concerning their rights, have transferred to Congress a power to balance, at its will, the political weight of any one State, much more of all the States, by authorizing it to create new States, at its pleasure, in foreign countries, not pretended to be within the scope of the Constitution, or the conception of the people at the time of passing it? This is not so much a question concerning the exercise of sovereignty, as it is who shall be sovereign—whether the proprietors of the good old United States shall manage their own affairs in their own way; or whether they, and their Constitution, and their political rights, shall be trampled under foot by foreigners, introduced through a breach of the Constitution. The proportion of the political weight of each sovereign State constituting this Union depends upon the number of the States which have voice under the compact. This number the Constitution permits us to multiply at pleasure within the limits of the original United States, observing only the expressed limitations in the Constitution. But when, in order to increase your power of augmenting this number, you pass the old limits, you are guilty of a violation of the Constitu-

tion in a fundamental point; and in one, also, which is totally inconsistent with the intent of the contract and the safety of the States which established the association. What is the practical difference to the old partners whether they hold their liberties at the will of a master, or whether by admitting exterior States on an equal footing with the original States, arbiters are constituted, who, by availing themselves of the contrariety of interests and views, which in such a confederacy necessarily will arise, hold the balance among the parties which exist and govern us by throwing themselves into the scale most comformable to their purpose? In both cases there is an effective despotism. But the last is the more galling, as we carry the chain in the name and gait of freemen.

I have thus shown, and whether fairly, I am willing to be judged by the sound discretion of the American people, that the power proposed to be usurped in this bill, results neither from the general nature nor the particular provisions of the Federal Constitution; and that it is a palpable violation of it in a fundamental point; whence flow all the consequences I have indicated.

"But," says the gentleman from Tennessee

(Mr. Rhea), "these people have been seven years citizens of the United States." I deny it, sir. As citizens of New Orleans, or of Louisiana, they never have been, and by the mode proposed they never will be, citizens of the United States. They may girt upon us for a moment, but no real cement can grow from such an association. What the real situation of the inhabitants of those foreign countries is, I shall have occasion to show presently. "But," says the same gentleman: "if I have a farm, have not I a right to purchase another farm, in my neighborhood, and settle my sons upon it, and in time admit them to a share in the management of my household?" Doubtless, sir. But are these cases parallel? Are the three branches of this government owners of this farm, called the United States? I desire to thank heaven they are not. I hold my life, liberty, and property, and the people of the State from which I have the honor to be a representative hold theirs, by a better tenure than any this National Government can give. Sir, I know your virtue. And I thank the Great Giver of every good gift, that neither the gentleman from Tennessee, nor his comrades, nor any, nor all the members of this House, nor of the other branch of the Legisla-

ture, nor the good gentleman who lives in the palace yonder, nor all combined, can touch these my essential rights, and those of my friends and constituents, except in a limited and prescribed form. No, sir. We hold these by the laws, customs, and principles of the commonwealth of Massachusetts. Behind her ample shield, we find refuge, and feel safety. I beg gentlemen not to act upon the principle, that the commonwealth of Massachusetts is their farm.[5]

"But," the gentleman adds, "what shall we do, if we do not admit the people of Louisiana into our Union? Our children are settling that country." Sir, it is no concern of mine what he does. Because his children have run wild and uncovered into the woods, is that a reason for him to break into my house, or the houses of my friends, to filch our children's clothes, in order to cover his children's nakedness. This Constitution never was, and never can be, strained to lap over all the wilderness of the West, without essentially affecting both the rights and convenience of its real proprietors. It was never constructed to form a covering for the inhabitants of the Missouri and Red River country. And whenever it is attempted

to be stretched over them, it will rend asunder. I have done with this part of my argument. It rests upon this fundamental principle, that the proportion of political power, subject only to internal modifications, permitted by the Constitution, is an unalienable, essential, intangible right. When it is touched, the fabric is annihilated ; for, on the preservation of these proportions, depend our rights and liberties.

If we recur to the known relations existing among the States at the time of the adoption of this Constitution, the same conclusions will result. The various interests, habits, manners, prejudices, education, situation, and views, which excited jealousies and anxieties in the breasts of some of our most distinguished citizens, touching the result of the proposed Constitution, were potent obstacles to its adoption. The immortal leader of our Revolution, in his letter to the President of the old Congress, written as president of the convention which formed this compact, thus speaks on this subject: "It is at all times difficult to draw, with precision, the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion this difficulty was increased by a difference

among the several States, as to their situation, extent, habits, and particular interests."

The debates of that period will show that the effect of the slave votes upon the political influence of this part of the country, and the anticipated variation of the weight of power to the West, were subjects of great and just jealousy to some of the best patriots in the Northern and Eastern States. Suppose, then, that it had been distinctly foreseen that, in addition to the effect of this weight, the whole population of a world beyond the Mississippi was to be brought into this and the other branch of the Legislature, to form our laws, control our rights, and decide our destiny. Sir, can it be pretended that the patriots of that day would for one moment have listened to it? They were not madmen. They had not taken degrees at the hospital of idiocy. They knew the nature of man, and the effect of his combinations in political societies. They knew that when the weight of particular sections of a confederacy was greatly unequal, the resulting power would be abused ; that it was not in the nature of man to exercise it with moderation. The very extravagance of the intended use is a conclusive evidence against the possi-

bility of the grant of such a power as is here proposed. Why, sir, I have already heard of six States, and some say there will be, at no great distance of time, more. I have also heard that the mouth of the Ohio will be far to the east of the centre of the contemplated empire. If the bill is passed, the principle is recognized. All the rest are mere questions of expediency. It is impossible such a power could be granted. It was not for these men that our fathers fought. It was not for them this Constitution was adopted. You have no authority to throw the rights and liberties and property of this people into "hotch-pot" with the wild men on the Missouri, nor with the mixed, though more respectable, race of Anglo-Hispano-Gallo-Americans, who bask on the sands in the mouth of the Mississippi. I make no objection to these from their want of moral qualities or political light. The inhabitants of New Orleans are, I suppose, like those of all other countries, some good, some bad, some indifferent.* * * *

I will add only a few words, in relation to the moral and political consequences of usurping this power. I have said that it would be a virtual dissolution of the Union; and gentlemen express great sensibility at the expression.

But the true source of terror is not the declaration I have made, but the deed you propose. Is there a moral principle of public law better settled, or more conformable to the plainest suggestions of reason, than that the violation of a contract by one of the parties may be considered as exempting the other from its obligations? Suppose, in private life, thirteen form a partnership, and ten of them undertake to admit a new partner without the concurrence of the other three, would it not be at their option to abandon the partnership, after so palpable an infringement of their rights? How much more, in the political partnership, where the admission of new associates, without previous authority, is so pregnant with obvious dangers and evils! Again, it is settled as a principle of morality, among writers on public law, that no person can be obliged, beyond his intent at the time of contract. Now who believes, who dare assert, that it was the intention of the people, when they adopted this Constitution, to assign, eventually, to New Orleans and Louisiana, a portion of their political power; and to invest all the people those extensive regions might hereafter contain, with an authority over themselves and their descendants? When you throw

the weight of Louisiana into the scale, you destroy the political equipoise contemplated at the time of forming the contract. Can any man venture to affirm that the people did intend such a comprehension as you now, by construction, give it? Or can it be concealed that, beyond its fair and acknowledged intent, such a compact has no moral force? If gentlemen are so alarmed at the bare mention of the consequences, let them abandon a measure which, sooner or later, will produce them. How long before the seeds of discontent will ripen, no man can foretell. But it is the part of wisdom not to multiply or scatter them. Do you suppose the people of the Northern and Atlantic States will, or ought to, look on with patience and see Representatives and Senators, from the Red River and Missouri, pouring themselves upon this and the other floor, managing the concerns of a sea-board fifteen hundred miles, at least, from their residence; and having a preponderancy in councils, into which, constitutionally, they could never have been admitted? I have no hesitation upon this point. They neither will see it, nor ought to see it, with content. It is the part of a wise man to foresee danger and to hide himself. This great usurpation, which

creeps into this House, under the plausible appearance of giving content to that important point, New Orleans, starts up a gigantic power to control the nation. Upon the actual condition of things, there is, there can be, no need of concealment. It is apparent to the blindest vision. By the course of nature, and conformable to the acknowledged principles of the Constitution, the sceptre of power, in this country, is passing toward the Northwest. Sir, there is to this no objection. The right belongs to that quarter of the country. Enjoy it; it is yours. Use the powers granted as you please. But take care, in your haste after effectual dominion, not to overload the scale by heaping it with these new acquisitions. Grasp not too eagerly at your purpose. In your speed after uncontrolled sway, trample not down this Constitution. * * *[8]

New States are intended to be formed beyond the Mississippi. There is no limit to men's imaginations, on this subject, short of California and Columbia River. When I said that the bill would justify a revolution and would produce it, I spoke of its principle and its practical consequences. To this principle and those consequences I would call the attention of this

House and nation. If it be about to introduce a condition of things absolutely insupportable, it becomes wise and honest men to anticipate the evil, and to warn and prepare the people against the event. I have no hesitation on the subject. The extension of this principle to the States contemplated beyond the Mississippi, cannot, will not, and ought not to be borne. And the sooner the people contemplate the unavoidable result the better; the more hope that the evils may be palliated or removed.

Mr. Speaker, what is this liberty of which so much is said? Is it to walk about this earth, to breathe this air, to partake the common blessings of God's providence? The beasts of the field and the birds of the air unite with us in such privileges as these. But man boasts a purer and more ethereal temperature. His mind grasps in its view the past and future, as well as the present. We live not for ourselves alone. That which we call liberty is that principle on which the essential security of our political condition depends. It results from the limitations of our political system, prescribed in the Constitution. These limitations, so long as they are faithfully observed, maintain order, peace, and safety. When they are

violated, in essential particulars, all the concurrent spheres of authority rush against each other; and disorder, derangement, and convulsion are, sooner or later, the necessary consequences.

With respect to this love of our Union, concerning which so much sensibility is expressed, I have no fears about analyzing its nature. There is in it nothing of mystery. It depends upon the qualities of that Union, and it results from its effects upon our and our country's happiness. It is valued for "that sober certainty of waking bliss" which it enables us to realize. It grows out of the affections, and has not, and cannot be made to have, any thing universal in its nature. Sir, I confess it: the first public love of my heart is the Commonwealth of Massachusetts. There is my fireside; there are the tombs of my ancestors—

> "Low lies that land, yet blest with fruitful stores,
> Strong are her sons, though rocky are her shores;
> And none, ah! none, so lovely to my sight,
> Of all the lands which heaven o'erspreads with light."

The love of this Union grows out of this attachment to my native soil, and is rooted in it. I cherish it, because it affords the best external

hope of her peace, her prosperity, her independence. I oppose this bill from no animosity to the people of New Orleans; but from the deep conviction that it contains a principle incompatible with the liberties and safety of my country. I have no concealment of my opinion. The bill, if it passes, is a death-blow to the Constitution. It may, afterward, linger; but, lingering, its fate will, at no very distant period, be consummated.

HENRY CLAY,*

OF KENTUCKY.[1]

(BORN 1777, DIED 1852.)

ON THE WAR OF 1812—HOUSE OF REPRESENTATIVES, JAN. 8, 1813.[2]

SIR, gentlemen appear to me to forget that they stand on American soil; that they are not in the British House of Commons, but in the chamber of the House of Representatives of the United States; that we have nothing to do with the affairs of Europe, the partition of territory and sovereignty there, except so far as these things affect the interests of our own country. Gentlemen transform themselves into the Burkes, Chathams, and Pitts of another country, and, forgetting, from honest zeal, the interests of America, engage with European sensibility in the discussion of European interests. If gentlemen ask me whether I do not view with regret and horror the concentration of such vast power in the hands of Bona-

* For notes on Clay see Appendix, p. 376.

parte, I reply that I do. I regret to see the Emperor of China holding such immense sway over the fortunes of millions of our species. I regret to see Great Britain possessing so uncontrolled a command over all the waters of the globe. If I had the ability to distribute among the nations of Europe their several portions of power and of sovereignty, I would say that Holland should be resuscitated and given the weight she enjoyed in the days of her De Witts. I would confine France within her natural boundaries, the Alps, Pyrenees, and the Rhine, and make her a secondary naval power only. I would abridge the British maritime power, raise Prussia and Austria to their original condition, and preserve the integrity of the Empire of Russia. But these are speculations. I look at the political transactions of Europe, with the single exception of their possible bearing upon us, as I do at the history of other countries and other times. I do not survey them with half the interest that I do the movements in South America. Our political relation with them is much less important than it is supposed to be. I have no fears of French or English subjugation. If we are united we are too powerful for the mightiest nation in Europe or all Europe

combined. If we are separated and torn asunder, we shall become an easy prey to the weakest of them. In the latter dreadful contingency our country will not be worth preserving.

Next to the notice which the opposition has found itself called upon to bestow upon the French Emperor, a distinguished citizen of Virginia, formerly President of the United States, has never for a moment failed to receive their kindest and most repectful attention. An honorable gentleman from Massachusetts (Mr. Quincy), of whom I am sorry to say it becomes necessary for me, in the course of my remarks, to take some notice, has alluded to him in a remarkable manner. Neither his retirement from public office, his eminent services, nor his advanced age, can exempt this patriot from the coarse assaults of party malevolence. No, sir. In 1801 he snatched from the rude hand of usurpation the violated Constitution of his country, and that is his crime. He preserved that instrument, in form, and substance, and spirit, a precious inheritance for generations to come, and for this he can never be forgiven. How vain and impotent is party rage, directed against such a man. He is not more elevated by his lofty residence, upon the summit of his

own favorite mountain, than he is lifted, by the serenity of his mind, and the consciousness of a well-spent life, above the malignant passions and bitter feelings of the day. No! his own beloved Monticello is not less moved by the storms that beat against its sides than is this illustrious man by the howlings of the whole British pack, set loose from the Essex kennel.[3] When the gentleman to whom I have been compelled to allude shall have mingled his dust with that of his abused ancestors, when he shall have been consigned to oblivion, or, if he lives at all, shall live only in the treasonable annals of a certain junto, the name of Jefferson will be hailed with gratitude, his memory honored and cherished as the second founder of the liberties of the people, and the period of his administration will be looked back to as one of the happiest and brightest epochs of American history; an oasis in the midst of a sandy desert. But I beg the gentleman's pardon; he has already secured to himself a more imperishable fame than I had supposed; I think it was about four years ago that he submitted to the House of Representatives an initiative proposition for the impeachment of Mr. Jefferson. The House condescended to consider it. The gentleman de-

bated it with his usual temper, moderation, and urbanity. The house decided upon it in the most solemn manner, and, although the gentleman had somehow obtained a second, the final vote stood one for, and one hundred and seventeen against, the proposition. * * *

But sir, I must speak of another subject, which I never think of but with feelings of the deepest awe. The gentleman from Massachusetts, in imitation of some of his predecessors of 1799, has entertained us with a picture of cabinet plots, presidential plots, and all sorts of plots, which have been engendered by the diseased state of the gentleman's imagination. I wish, sir, that another plot, of a much more serious and alarming character—a plot that aims at the dismemberment of our Union —had only the same imaginary existence. But no man, who has paid any attention to the tone of certain prints and to transactions in a particular quarter of the Union, for several years past, can doubt the existence of such a plot. It was far, very far from my intention to charge the opposition with such a design. No, I believe them generally incapable of it. But I cannot say as much for some who have been unworthily as-

sociated with them in the quarter of the Union to which I have referred. The gentleman cannot have forgotten his own sentiment, uttered even on the floor of this house, "peaceably if we can, forcibly if we must," nearly at the very time Henry's mission was undertaken.[5] The flagitiousness of that embassy had been attempted to be concealed by directing the public attention to the price which, the gentleman says, was given for the disclosure. As if any price could change the atrociousness of the attempt on the part of Great Britain, or could extenuate, in the slightest degree, the offence of those citizens, who entertained and deliberated on a proposition so infamous and unnatural * * * But, sir, I will quit this unpleasant subject. * * *

The war was declared because Great Britain arrogated to herself the pretension of regulating our foreign trade, under the delusive name of retaliatory orders in council—a pretension by which she undertook to proclaim to American enterprise, "thus far shalt thou go, and no further"—orders which she refused to revoke after the alleged cause of their enactment had ceased; because she persisted in the practice of impressing American seamen; because she had

instigated the Indians to commit hostilities against us; and because she refused indemnity for her past injuries upon our commerce. I throw out of the question other wrongs. So undeniable were the causes of the war, so powerfully did they address themselves to the feelings of the whole American people, that when the bill was pending before this House, gentlemen in the opposition, although provoked to debate, would not, or could not, utter one syllable against it. It is true, they wrapped themselves up in sullen silence, pretending they did not choose to debate such a question in secret session. While speaking of the proceedings on that occasion I beg to be permitted to advert to another fact which transpired—an important fact, material for the nation to know, and which I have often regretted had not been spread upon our journals. My honorable colleague (Mr. McKee) moved, in committee of the whole, to comprehend France in the war; and when the question was taken upon the proposition, there appeared but ten votes in support of it, of whom seven belonged to this side of the house, and three only to the other. * * *

It is not to the British principle (of alle-

giance), objectionable as it is, that we are alone to look; it is to her practice, no matter what guise she puts on. It is in vain to assert the inviolability of the obligation of allegiance. It is in vain to set up the plea of necessity, and to allege that she cannot exist without the impressment of HER seamen. The naked truth is, she comes, by her press-gangs, on board of our vessels, seizes OUR native as well as naturalized seamen, and drags them into her service. It is the case, then, of the assertion of an erroneous principle, and of a practice not conformable to the asserted principle—a principle which, if it were theoretically right, must be forever practically wrong—a practice which can obtain countenance from no principle whatever, and to submit to which, on our part, would betray the most abject degradation. We are told, by gentlemen in the opposition, that government has not done all that was incumbent on it to do, to avoid just cause of complaint on the part of Great Britain; that in particular the certificates of protection, authorized by the act of 1796, are fraudulently used. Sir, government has done too much in granting those paper protections. I can never think of them without being shocked. They

resemble the passes which the master grants to his negro slave: "Let the bearer, Mungo, pass and repass without molestation." What do they imply? That Great Britain has a right to seize all who are not provided with them. From their very nature, they must be liable to abuse on both sides. If Great Britain desires a mark, by which she can know her own subjects, let her give them an ear-mark. The colors that float from the mast-head should be the credentials of our seamen. There is no safety to us, and the gentlemen have shown it, but in the rule that all who sail under the flag (not being enemies), are protected by the flag. It is impossible that this country should ever abandon the gallant tars who have won for us such splendid trophies. Let me suppose that the genius of Columbia should visit one of them in his oppressor's prison, and attempt to reconcile him to his forlorn and wretched condition. She would say to him, in the language of gentlemen on the other side: "Great Britain intends you no harm; she did not mean to impress you, but one of her own subjects; having taken you by mistake, I will remonstrate, and try to prevail upon her, by peaceable means, to release you; but I cannot, my son, fight for you." If

he did not consider this mere mockery, the poor tar would address her judgment and say: "You owe me, my country, protection; I owe you, in return, obedience. I am no British subject; I am a native of old Massachusetts, where lived my aged father, my wife, my children. I have faithfully discharged my duty. Will you refuse to do yours?" Appealing to her passions, he would continue: "I lost this eye in fighting under Truxton, with the *Insurgente*; I got this scar before Tripoli; I broke this leg on board the *Constitution*, when the *Guerrière* struck." * * * I will not imagine the dreadful catastrophe to which he would be driven by an abandonment of him to his oppressor. It will not be, it cannot be, that his country will refuse him protection. * * *

An honorable peace is attainable only by an efficient war. My plan would be to call out the ample resources of the country, give them a judicious direction, prosecute the war with the utmost vigor, strike wherever we can reach the enemy, at sea or on land, and negotiate the terms of a peace at Quebec or at Halifax. We are told that England is a proud and lofty nation, which, disdaining to wait for danger, meets it half way. Haughty as she is we

triumphed over her once, and, if we do not listen to the counsels of timidity and despair, we shall again prevail. In such a cause, with the aid of Providence, we must come out crowned with success; but, if we fail, let us fail like men, lash ourselves to our gallant tars, and expire together in one common struggle, fighting for FREE TRADE AND SEAMEN'S RIGHTS.

IV.

THE RISE OF NATIONALITY.

IV.

THE RISE OF NATIONALITY.

In spite of execrable financial management, of the criminal blunders of political army officers, and of consequent defeats on land, and quite apart from brilliant sea-fights and the New Orleans victory, the war of 1812 was of incalculable benefit to the United States. It marks more particularly the point at which the already established democracy began to shade off into a real nationality.

The Democratic party began its career as a States-rights party. Possession of national power had so far modified the practical operation of its tenets that it had not hesitated to carry out a national policy, and even wage a desperate war, in flat opposition to the will of one section of the Union, comprising five of its most influential States; and, when the Hartford

Convention was suspected of a design to put the New England opposition to the war into a forcible veto, there were many indications that the dominant party was fully prepared to answer by a forcible materialization of the national will. In the North and West, at least, the old States-rights formulas never carried a real vitality beyond the war of 1812. Men still spoke of "sovereign States," and prided themselves on the difference between the "voluntary union of States" and the effete despotisms of Europe; but the ghost of the Hartford Convention had laid very many more dangerous ghosts in the section in which it had appeared.

The theatre of the war, now filled with comfortable farms and populous cities, was then less known than any of our Territories in 1896. There were no roads, and the transportation of provisions for the troops, of guns, ammunition, and stores for the lake navies, was one of the most difficult of the problems which the National Government was called upon to solve. It cannot be said that

the solution was successfully reached, for the blunders in transportation were among the most costly, exasperating, and dangerous of the war. But the efforts to reach it provided the impulse which soon after resulted in the settlement of Western New York, the appearance of the germs of such flourishing cities as Buffalo, Rochester, and Syracuse, the opening up of the Southwest Territory, between Tennessee and New Orleans, and the rapid admission of the new States of Indiana, Illinois, Mississippi, and Missouri. But the impulse did not stop here. The inconveniences and dangers arising from the possession of a vast territory with utterly inadequate means of communication had been brought so plainly to public view by the war that the question of communication influenced politics in every direction. In New York it took shape in the construction of the Erie Canal (finished in 1825). In States farther west and south, the loaning of the public credit to enterprises of the nature of the Erie Canal increased until the panic of 1837 introduced

"repudiation" into American politics. In national politics, the necessity of a general system of canals and roads, as a means of military defence, was at first admitted by all, even by Calhoun, was gradually rejected by the stricter constructionists of the Constitution, and finally became a tenet of the National Republican party, headed by John Quincy Adams and Clay (1825-29), and of its greater successor the Whig party, headed by Clay. This idea of Internal Improvements at national expense, though suggested by Gallatin and Clay in 1806–08, only became a political question when the war had forced it upon public attention; and it has not yet entirely disappeared.

The maintenance of such a system required money, and a high tariff of duties on imports was a necessary concomitant to Internal Improvements. The germ of this system was also a product of the war of 1812. Hamilton had proposed it twenty years before; and the first American tariff act had declared that its object was the encouragement of American manufac-

tures. But the system had never been effectively introduced until the war and the blockade had forced American manufactures into existence. Peace brought competition with British manufacturers, and the American manufacturers began to call for protection. The tariff of 1816 contained the principle of Protection, but only carried it into practice far enough to induce the manufacturers to rely on the dominant party for more of it. This expectation, rather than the Federalist opposition to the war, is the explanation of the immediate and rapid decline of the Federal party in New England. Continued effort brought about the tariff of 1824, which was more protective; the tariff of 1828, which was still more protective; and the tariff of 1830, which reduced the protective element to a system.

The two sections, North and South, had been very much alike until the war called the principle of growth into activity. The slave system of labor, which had fallen in the North and had survived and been made still more

profitable in the South by Whitney's invention of the cotton gin in 1793, shut the South off from almost all share in the new life. That section had a monopoly of the cotton culture, and the present profit of slave labor blinded it to the ultimate consequences of it. The slave was fit for rude agriculture alone; he could not be employed in manufactures, or in any labor which required intelligence; and the slave-owner, while he desired manufactures, did not dare to cultivate the necessary intelligence in his own slaves. The South could therefore find no profit in protection, and yet it could not with dignity admit that its slave system precluded it from the advantages of protection, or base its opposition to protection wholly on economic grounds. Its only recourse was the constitutional ground of the lack of power of Congress to pass a protective tariff, and this brought up again the question which had evolved the Kentucky resolutions of 1798–9. Calhoun, with pitiless logic, developed them into a scheme of constitutional Nullification. Under his lead,

South Carolina, in 1832, declared through her State Convention that the protective tariff acts were no law, nor binding on the State, its officers or citizens. President Jackson, while he was ready and willing to suppress any such rebellion by force, was not sorry to see his adherents in Congress make use of it to overthrow protection; and a "compromise tariff," to which the protectionists agreed, was passed in 1833. It reduced the duties by an annual percentage for ten years. The nullifiers claimed this as a triumph, and formally repealed the ordinance of nullification, as if it had accomplished its object. But, in its real intent, it had failed wretchedly. It had asserted State sovereignty through the State's proper voice of a convention. When the time fixed for the execution of the ordinance arrived, Jackson's intention of taking the State's sovereignty by the throat had become so evident that an unofficial meeting of nullifiers suspended the ordinance until the passage of the compromise tariff had made it unnecessary. For the first time, the force of a

State and the national force had approached threateningly near collision, and no State ever tried it again. When the tariff of 1842 re-introduced the principle of protection, no one thought of taking the broken weapon of nullification from its resting-place; and secession was finally attempted only as a sectional movement, not as the expression of the will of a State, but as a concerted revolution by a number of States. It seems certain that nationality had attained force enough, even in 1833, to have put State sovereignty forever under its feet; and that but for the cohesive sectional force of slavery and its interests, the development of nationality would have been undisputed for the future.

New conditions were increasing the growth of the North and West, and their separation from the South in national life, even when nullification was in its death struggle. The acquisition of Louisiana in 1803 had been followed in 1807 by Fulton's invention of the steamboat, the most important factor in carrying immigra-

tion into the new territories and opening them up to settlement. But the steamboat could not quite bridge over the gap between the Alleghanies and the Mississippi. Internal improvements, canals, and improved roads were not quite the instrument that was needed. It was found at last in the introduction of the railway into the United States in 1830–32. This proved to be an agent which could solve every difficulty except its own. It could bridge over every gap; it could make profit of its own, and make profitable that which had before been unprofitable. It placed immigrants where the steamboat, canal, and road could at last be of the highest utility to them; it developed the great West with startling rapidity; it increased the sale of government lands so rapidly that in a few years the debt of the United States was paid off, and the surplus became, for the first time, a source of political embarrassment. In a few years further, aided by revolutionary troubles in Europe, immigration became a great stream, which poured into and altered the con-

ditions of every part of the North and West. The stream was altogether nationalizing in its nature. The immigrant came to the United States, not to a particular State. To him, the country was greater than any State; even that of his adoption. Labor conditions excluded the South from this element of progress also. Not only were the railroads of the South hampered in every point by the old difficulty of slave labor; immigration and free labor shunned slave soil as if the plague were there prevalent. Year after year the North and West became more national in their prejudices and modes of thought and action; while the South remained little changed, except by a natural reactionary drift toward a more extreme colonialism. The natural result, in the next period was the development of a *quasi* nationality in the South itself.

The introduction of the railway had brought its own difficulties, though these were not felt severely until after years. In the continent of Europe, the governments carefully retained

their powers of eminent domain when the new system was introduced. The necessary land was loaned to the railways for a term of years, at the expiration of which the railway was to revert to the State; and railway troubles were non-existent, or comparatively tractable. In the United States, as in Great Britain, free right of incorporation was supplemented by what was really a gift of the power of eminent domain. The necessary land became the property of the corporations in fee, and it has been found almost equally difficult to revoke the gift or to introduce a railway control.

Democracy took a new and extreme line of development under its alliance with nationality. As the dominant party, about 1827–8, became divided into two parties, the new parties felt the democratic influence as neither of their predecessors had felt it. Nominations, which had been made by cliques of legislators or Congressmen, began to be made by popular delegate conventions about 1825. Before 1835, national, State, and local conventions had been

united into parties of the modern type. With them came the *pseudo* democratic idea of "rotation in office," introduced into national politics by President Jackson, in 1829, and adopted by succeeding administrations. There were also some attempts to do away with the electoral system, and to make the federal judiciary elective, or to impose on it some other term of office than good behavior; but these had neither success nor encouragement.

The financial errors of the war of 1812 had fairly compelled the re-establishment of the Bank of the United States in 1816, with a charter for twenty years, and the control of the deposits of national revenue. Soon after Jackson's inauguration, the managers of the new democratic party came into collision with the bank on the appointment of a subordinate agent. It very soon became evident that the bank could not exist in the new political atmosphere. It was driven into politics; a new charter was vetoed in 1832; and after one of the

bitterest struggles of our history, the bank ceased to exist as a government institution in 1836. The reason for its fall, however disguised by attendant circumstances, was really its lack of harmony with the national-democratic environment which had overtaken it. Benton's speech presents a review of this bank struggle and of accompanying political controversies.

The anti-slavery agitation, which began in 1830, was as evidently a product of the new phase of democracy, but will fall more naturally under the next period.

Webster's reply to Hayne has been taken as the best illustration of that thoroughly national feeling which was impossible before the war of 1812, and increasingly more common after it. It has been necessary to preface it with Hayne's speech, in order to have a clear understanding of parts of Webster's; but it has not been possible to omit Calhoun's speech, as a defence of his scheme of nullification, and as an exemplifica-

tion of the reaction toward colonialism with which the South met the national development. It has not seemed necessary to include other examples of the orations called forth by the temporary political issues of the time.

ROBERT Y. HAYNE,*

OF SOUTH CAROLINA.[1]

(BORN 1791, DIED 1840.)

ON MR. FOOT'S RESOLUTION IN THE UNITED STATES SENATE, JAN. 21, 1830.[2]

MR. PRESIDENT:

Mr. Hayne said, when he took occasion, two days ago, to throw out some ideas with respect to the policy of the government in relation to the public lands, nothing certainly could have been further from his thoughts than that he should have been compelled again to throw himself upon the indulgence of the Senate. Little did I expect, said Mr. H., to be called upon to meet such an argument as was yesterday urged by the gentleman from Massachusetts (Mr. Webster). Sir, I question no man's opinions; I impeach no man's motives; I charged no party, or State, or section of country with hostility to any other, but ventured, as I thought,

* For notes on Hayne see Appendix, p. 380.

in a becoming spirit, to put forth my own sentiments in relation to a great national question of public policy. Such was my course. The gentleman from Missouri (Mr. Benton), it is true, had charged upon the Eastern States an early and continued hostility toward the West, and referred to a number of historical facts and documents in support of that charge. Now, sir, how have these different arguments been met? The honorable gentleman from Massachusetts, after deliberating a whole night upon his course, comes into this chamber to vindicate New England; and instead of making up his issue with the gentleman from Missouri, on the charges which *he had preferred*, chooses to consider me as the author of those charges, and losing sight entirely of that gentleman, selects me as his adversary, and pours out all the vials of his mighty wrath upon my devoted head. Nor is he willing to stop there. He goes on to assail the institutions and policy of the South, and calls in question the principles and conduct of the State which I have the honor to represent. When I find a gentleman of mature age and experience, of acknowledged talents and profound sagacity, pursuing a course like this, declining the contest offered from the West,

and making war upon the unoffending South, I must believe, I am bound to believe, he has some object in view which he has not ventured to disclose. Mr. President, why is this? Has the gentleman discovered in former controversies with the gentleman from Missouri, that he is overmatched by that senator? And does he hope for an easy victory over a more feeble adversary? Has the gentleman's distempered fancy been disturbed by gloomy forebodings of "new alliances to be formed," at which he hinted? Has the ghost of the murdered coalition come back, like the ghost of Banquo, to "sear the eyeballs" of the gentleman, and will not down at his bidding?[3] Are dark visions of broken hopes, and honors lost forever, still floating before his heated imagination? Sir, if it be his object to thrust me between the gentleman from Missouri and himself, in order to rescue the East from the contest it has provoked with the West, he shall not be gratified. Sir, I will not be dragged into the defence of my friend from Missouri. The South shall not be forced into a conflict not its own. The gentleman from Missouri is able to fight his own battles. The gallant West needs no aid from the South to repel any attack which may be made

upon them from any quarter. Let the gentleman from Massachusetts controvert the facts and arguments of the gentleman from Missouri, if he can—and if he win the victory, let him wear the honors; I shall not deprive him of his laurels. * * *[4]

Sir, any one acquainted with the history of parties in this country will recognize in the points now in dispute between the Senator from Massachusetts and myself the very grounds which have, from the beginning, divided the two great parties in this country, and which (call these parties by what names you will, and *amalgamate* them as you may) will divide them forever. The true distinction between those parties is laid down in a celebrated manifesto issued by the convention of the Federalists of Massachusetts, assembled in Boston, in February, 1824, on the occasion of organizing a party opposition to the re-election of Governor Eustis.[5] The gentleman will recognize this as "the canonical book of political scripture"; and it instructs us that, when the American colonies redeemed themselves from British bondage, and became so many *independent nations*, they proposed to form a NATIONAL UNION (not a *Federal* Union, sir, but a NATIONAL UNION).

Those who were in favor of a union of the States in this form became known by the name of Federalists; those who wanted no union of the States, or disliked the proposed form of union, became known by the name of Anti-Federalists. By means which need not be enumerated, the Anti-Federalists became (after the expiration of twelve years) our national rulers, and for a period of sixteen years, until the close of Mr. Madison's administration in 1817, continued to exercise the exclusive direction of our public affairs. Here, sir, is the true history of the origin, rise, and progress of the party of National Republicans, who date back to the very origin of the Government, and who then, as now, chose to consider the Constitution as having created not a Federal, but a National, Union; who regarded "consolidation" as no evil, and who doubtless consider it "a consummation to be wished" to build up a great "central government," "one and indivisible." Sir, there have existed, in every age and every country, two distinct orders of men—the *lovers of freedom* and the devoted *advocates of power*.

The same great leading principles, modified only by the peculiarities of manners, habits, and institutions, divided parties in the ancient

republics, animated the Whigs and Tories of Great Britain, distinguished in our own times the Liberals and Ultras of France, and may be traced even in the bloody struggles of unhappy Spain. Sir, when the gallant Riego,[6] who devoted himself and all that he possessed to the liberties of his country, was dragged to the scaffold, followed by the tears and lamentations of every lover of freedom throughout the world, he perished amid the deafening cries of "Long live the absolute king!" The people whom I represent, Mr. President, are the descendants of those who brought with them to this country, as the most precious of their possessions, "an ardent love of liberty"; and while that shall be preserved, they will always be found manfully struggling against the *consolidation of the Government* AS THE WORST OF EVILS. * * *[7]

Who, then, Mr. President, are the true friends of the Union? Those who would confine the Federal Government strictly within the limits prescribed by the Constitution; who would preserve to the States and the people all powers not expressly delegated; who would make this a Federal and not a National Union, and who, administering the Government in a spirit of equal justice, would make it a blessing, and not

a curse. And who are its enemies? Those who are in favor of consolidation; who are constantly stealing power from the States, and adding strength to the Federal Government; who, assuming an unwarrantable jurisdiction over the States and the people, undertake to regulate the whole industry and capital of the country. But, sir, of all descriptions of men, I consider those as the worst enemies of the Union, who sacrifice the equal rights which belong to every member of the confederacy to combinations of interested majorities for personal or political objects. But the gentleman apprehends no evil from the dependence of the States on the Federal Government; he can see no danger of corruption from the influence of money or patronage. Sir, I know that it is supposed to be a wise saying that "patronage is a source of weakness"; and in support of that maxim it has been said that "every ten appointments make a hundred enemies." But I am rather inclined to think, with the eloquent and sagacious orator[8] now reposing on his laurels on the banks of the Roanoke, that "the power of conferring favors creates a crowd of dependents"; he gave a forcible illustration of the truth of the remark, when he told us of the

effect of holding up the savory morsel to the eager eyes of the hungry hounds gathered around his door. It mattered not whether the gift was bestowed on "Towzer" or "Sweetlips," "Tray," "Blanche," or "Sweetheart"; while held in suspense, they were all governed by a nod, and when the morsel was bestowed, the expectation of the favors of to-morrow kept up the subjection of to-day.

The Senator from Massachusetts, in denouncing what he is pleased to call the Carolina doctrine, has attempted to throw ridicule upon the idea that a State has any constitutional remedy by the exercise of its sovereign authority, against "a gross, palpable, and deliberate violation of the Constitution." He calls it "an idle" or "a ridiculous notion," or something to that effect, and added, that it would make the Union a "mere rope of sand." Now, sir, as the gentleman has not condescended to enter into any examination of the question, and has been satisfied with throwing the weight of his authority into the scale, I do not deem it necessary to do more than to throw into the opposite scale the authority on which South Carolina relies; and there, for the present, I am perfectly willing to leave the controversy. The South Carolina

doctrine, that is to say, the doctrine contained in an exposition reported by a committee of the Legislature in December, 1828, and published by their authority, is the good old Republican doctrine of '98—the doctrine of the celebrated "Virginia Resolutions" of that year, and of "Madison's Report" of '99. It will be recollected that the Legislature of Virginia, in December, '98, took into consideration the alien and sedition laws, then considered by all Republicans as a gross violation of the Constitution of the United States, and on that day passed, among others, the following resolution:—

"The General Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States who are the parties thereto have the right, and are in duty bound, to interpose for arresting the progress of the evil,

and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them."

In addition to the above resolution, the General Assembly of Virginia "appealed to the other States, in the confidence that they would concur with that commonwealth, that the acts aforesaid (the alien and sedition laws) are unconstitutional, and that the necessary and proper measures would be taken by each for coöperating with Virginia in maintaining unimpaired the authorities, rights, and liberties reserved to the States respectively, or to the people." * * *

But, sir, our authorities do not stop here. The State of Kentucky responded to Virginia, and on the 10th of November, 1798, adopted those celebrated resolutions, well known to have been penned by the author of the Declaration of American Independence. In those resolutions, the Legislature of Kentucky declare, "that the government created by this compact was not made the exclusive or final judge of the extent of the power delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has

an equal right to judge for itself as well of infractions as of the mode and measure of redress." * * *[10]

Sir, at that day the whole country was divided on this very question. It formed the line of demarcation between the federal and republican parties; and the great political revolution which then took place turned upon the very questions involved in these resolutions. That question was decided by the people, and by that decision the Constitution was, in the emphatic language of Mr. Jefferson, "saved at its last gasp." I should suppose, sir, it would require more self-respect than any gentleman here would be willing to assume, to treat lightly doctrines derived from such high sources. Resting on authority like this, I will ask, gentlemen, whether South Carolina has not manifested a high regard for the Union, when, under a tyranny ten times more grievous than the alien and sedition laws, she has hitherto gone no further than to petition, remonstrate, and to solemnly protest against a series of measures which she believes to be wholly unconstitutional and utterly destructive of her interests. Sir, South Carolina has not gone one step further than Mr. Jefferson himself was disposed to

go, in relation to the present subject of our present complaints—not a step further than the statesmen from New England were disposed to go under similar circumstances; no further than the Senator from Massachusetts himself once considered as within "the limits of a constitutional opposition." The doctrine that it is the right of a State to judge of the violations of the Constitution on the part of the Federal Government, and to protect her citizens from the operations of unconstitional laws, was held by the enlightened citizens of Boston, who assembled in Faneuil Hall, on the 25th of January, 1809.[11] They state, in that celebrated memorial, that "they looked only to the State Legislature, which was competent to devise relief against the unconstitutional acts of the General Government. That your power (say they) is adequate to that object, is evident from the organization of the confederacy." * * *

Thus it will be seen, Mr. President, that the South Carolina doctrine is the Republican doctrine of '98,—that it was promulgated by the fathers of the faith,—that it was maintained by Virginia and Kentucky in the worst of times,—that it constituted the very pivot on which the political revolution of that day

turned,—that it embraces the very principles, the triumph of which, at that time, saved the Constitution at its last gasp, and which New England statesmen were not unwilling to adopt when they believed themselves to be the victims of unconstitutional legislation. Sir, as to the doctrine that the Federal Government is the exclusive judge of the extent as well as the limitations of its power, it seems to me to be utterly subversive of the sovereignty and independence of the States. It makes but little difference, in my estimation, whether Congress or the Supreme Court are invested with this power. If the Federal Government, in all, or any, of its departments, is to prescribe the limits of its own authority, and the States are bound to submit to the decision, and are not to be allowed to examine and decide for themselves when the barriers of the Constitution shall be overleaped, this is practically "a government without limitation of powers." The States are at once reduced to mere petty corporations, and the people are entirely at your mercy. I have but one word more to add. In all the efforts that have been made by South Carolina to resist the unconstitutional laws which Congress has extended over them,

she has kept steadily in view the preservation of the Union, by the only means by which she believes it can be long preserved—a firm, manly, and steady resistance against usurpation. The measures of the Federal Government have, it is true, prostrated her interests, and will soon involve the whole South in irretrievable ruin. But even this evil, great as it is, is not the chief ground of our complaints. It is the principle involved in the contest—a principle which, substituting the discretion of Congress for the limitations of the Constitution, brings the States and the people to the feet of the Federal Government, and leaves them nothing they can call their own. Sir, if the measures of the Federal Government were less oppressive, we should still strive against this usurpation. The South is acting on a principle she has always held sacred—resistance to unauthorized taxation. These, sir, are the principles which induced the immortal Hampden to resist the payment of a tax of twenty shillings. Would twenty shillings have ruined his fortune? No! but the payment of half of twenty shillings, on the principle on which it was demanded, would have made him a slave.[12] Sir, if acting on these high motives—if animated by that ardent love

of liberty which has always been the most prominent trait in the Southern character, we would be hurried beyond the bounds of a cold and calculating prudence; who is there, with one noble and generous sentiment in his bosom, who would not be disposed, in the language of Burke, to exclaim, "You must pardon something to the spirit of liberty?"[11]

DANIEL WEBSTER,*

OF MASSACHUSETTS.[1]

(BORN 1782, DIED 1852.)

IN REPLY TO HAYNE, IN THE UNITED STATES SENATE, JANUARY 26, 1830.[2]

MR. PRESIDENT:

When the mariner has been tossed for many days in thick weather, and on an unknown sea, he naturally avails himself of the first pause in the storm, the earliest glance of the sun, to take his latitude, and ascertain how far the elements have driven him from his true course. Let us imitate this prudence, and before we float further on the waves of this debate, refer to the point from which we departed, that we may at least be able to conjecture where we now are. I ask for the reading of the resolution before the Senate.

The Secretary read the resolution, as follows:

Resolved, That the Committee on Public Lands

*For notes on Webster see Appendix, p. 385.

be instructed to inquire and report the quantity of public land remaining unsold within each State and Territory, and whether it be expedient to limit for a certain period the sales of the public lands to such lands only as have heretofore been offered for sale, and are now subject to entry at the minimum price. And, also, whether the office of Surveyor-General, and some of the land offices, may not be abolished without detriment to the public interest; or whether it be expedient to adopt measures to hasten the sales and extend more rapidly the surveys of the public lands

We have thus heard, sir, what the resolution is which is actually before us for consideration; and it will readily occur to everyone, that it is almost the only subject about which something has not been said in the speech, running through two days, by which the Senate has been entertained by the gentleman from South Carolina. Every topic in the wide range of our public affairs, whether past or present—every thing, general or local, whether belonging to national politics or party politics—seems to have attracted more or less of the honorable member's attention, save only the resolution before the Senate. He has spoken of every thing but the public lands; they have escaped

his notice. To that subject, in all his excursions, he has not paid even the cold respect of a passing glance.

When this debate, sir, was to be resumed, on Thursday morning, it so happened that it would have been convenient for me to be elsewhere.[3] The honorable member, however, did not incline to put off the discussion to another day. He had a shot, he said, to return, and he wished to discharge it. That shot, sir, which he thus kindly informed us was coming, that we might stand out of the way, or prepare ourselves to fall by it and die with decency, has now been received. Under all advantages, and with expectation awakened by the tone which preceded it, it has been discharged, and has spent its force. It may become me to say no more of its effect, than that, if nobody is found, after all, either killed or wounded, it is not the first time in the history of human affairs, that the vigor and success of the war have not quite come up to the lofty and sounding phrase of the manifesto.

The gentleman, sir, in declining to postpone the debate, told the Senate, with the emphasis of his hand upon his heart, that there was something rankling *here*, which he wished to

relieve. (Mr. Hayne rose, and disclaimed having used the word *rankling*.) It would not, Mr. President, be safe for the honorable member to appeal to those around him, upon the question whether he did in fact make use of that word. But he may have been unconscious of it. At any rate, it is enough that he disclaims it. But still, with or without the use of that particular word, he had yet something *here*, he said, of which he wished to rid himself by an immediate reply. In this respect, sir, I have a great advantage over the honorable gentleman. There is nothing *here*, sir, which gives me the slightest uneasiness; neither fear, nor anger, nor that which is sometimes more troublesome than either, the consciousness of having been in the wrong. There is nothing, either originating *here*, or now received *here* by the gentleman's shot. Nothing originating here, for I had not the slightest feeling of unkindness toward the honorable member. Some passages, it is true, had occurred since our acquaintance in this body, which I could have wished might have been otherwise; but I had used philosophy and forgotten them. I paid the honorable member the attention of listening with respect to his first speech; and when

he sat down, though surprised, and I must even say astonished, at some of his opinions, nothing was farther from my intention than to commence any personal warfare. Through the whole of the few remarks I made in answer, I avoided, studiously and carefully, every thing which I thought possible to be construed into disrespect. And, Sir, while there is thus nothing originating *here* which I have wished at any time, or now wish, to discharge, I must repeat, also, that nothing has been received *here* which *rankles*, or in any way gives me annoyance. I will not accuse the honorable member of violating the rules of civilized war; I will not say that he poisoned his arrows. But whether his shafts were, or were not, dipped in that which would have caused rankling if they had reached their destination, there was not, as it happened, quite strength enough in the bow to bring them to their mark. If he wishes now to gather up those shafts, he must look for them elsewhere; they will not be found fixed and quivering in the object at which they were aimed.

The honorable member complained that I slept on his speech. I must have slept on it, or not slept at all. The moment the honora-

ble member sat down, his friend from Missouri rose, and, with much honeyed commendation of the speech, suggested that the impressions which it had produced were too charming and delightful to be disturbed by other sentiments or other sounds, and proposed that the Senate should adjourn. Would it have been quite amiable in me, Sir, to interrupt this excellent good feeling? Must I not have been absolutely malicious, if I could have thrust myself forward, to destroy sensations thus pleasing? Was it not much better and kinder, both to sleep upon them myself, and to allow others also the pleasure of sleeping upon them? But if it be meant, by sleeping upon his speech, that I took time to prepare a reply to it, it is quite a mistake. Owing to other engagements, I could not employ even the interval between the adjournment of the Senate and its meeting the next morning, in attention to the subject of this debate. Nevertheless, Sir, the mere matter of fact is undoubtedly true. I did sleep on the gentleman's speech, and slept soundly. And I slept equally well on his speech of yesterday, to which I am now replying. It is quite possible that in this respect, also, I possess some advantage over the honorable

member, attributable, doubtless, to a cooler temperament on my part; for, in truth, I slept upon his speeches remarkably well.

But the gentleman inquires why HE was made the object of such a reply. Why was *he* singled out? If an attack has been made on the East, he, he assures us, did not begin it; it was made by the gentleman from Missouri. Sir, I answered the gentleman's speech because I happened to hear it;[5] and because, also, I choose to give an answer to that speech, which, if unanswered, I thought most likely to produce injurious impressions. I did not stop to inquire who was the original drawer of the bill. I found a responsible indorser before me, and it was my purpose to hold him liable, and to bring him to his just responsibility without delay. But, sir, this interrogatory of the honorable member was only introductory to another. He proceeded to ask me whether I had turned upon him in this debate, from the consciousness that I should find an overmatch, if I ventured on a contest with his friend from Missouri. If, sir, the honorable member, *modestiæ gratia*, had chosen thus to defer to his friend, and to pay him compliments, without intentional disparagement to others, it would have been quite ac

cording to the friendly courtesies of debate, and not at all ungrateful to my own feelings. I am not one of those, sir, who esteem any tribute of regard, whether light and occasional, or more serious and deliberate, which may be bestowed on others, as so much unjustly withholden from themselves. But the tone and the manner of the gentleman's question forbid me thus to interpret it. I am not at liberty to consider it as nothing more than a civility to his friend. It had an air of taunt and disparagement, something of the loftiness of asserted superiority, which does not allow me to pass it over without notice. It was put as a question for me to answer, and so put as if it were difficult for me to answer whether I deemed the member from Missouri an overmatch for myself in debate here. It seems to me, sir, that this is extraordinary language, and an extraordinary tone, for the discussions of this body.

Matches and overmatches! Those terms are more applicable elsewhere than here, and fitter for other assemblies than this. Sir, the gentleman seems to forget where and what we are. This is a Senate, a Senate of equals, of men of individual honor and personal character, and of absolute independence. We know no masters,

we acknowledge no dictators. This is a hall for mutual consultation and discussion; not an arena for the exhibition of champions. I offer myself, sir, as a match for no man; I throw the challenge of debate at no man's feet. But then, sir, since the honorable member has put the question in a manner that calls for an answer, I will give him an answer; and I tell him, that, holding myself to be the humblest of the members here, I yet know nothing in the arm of his friend from Missouri, either alone or when aided by the arm of his friend from South Carolina, that need deter even me from espousing whatever opinions I may choose to espouse, from debating whenever I may choose to debate, or from speaking whatever I may see fit to say, on the floor of the Senate. Sir, when uttered as matter of commendation or compliment, I should dissent from nothing which the honorable member might say of his friend. Still less do I put forth any pretensions of my own. But when put to me as a matter of taunt, I throw it back, and say to the gentleman, that he could possibly say nothing less likely than such a comparison to wound my pride of personal character. The anger of its tone rescued the remark from intentional irony,

which otherwise, probably, would have been its general acceptation. But, sir, if it be imagined by this mutual quotation and commendation; if it be supposed that, by casting the characters of the drama, assigning to each his part, to one the attack, to another the cry of onset; or if it be thought that, by a loud and empty vaunt of anticipated victory, any laurels are to be won here; if it be imagined, especially, that any, or all of these things will shake any purpose of mine, I can tell the honorable member, once for all, that he is greatly mistaken, and that he is dealing with one of whose temper and character he has yet much to learn. Sir, I shall not allow myself, on this occasion, I hope on no occasion, to be betrayed into any loss of temper; but if provoked, as I trust I never shall be, into crimination and recrimination, the honorable member may, perhaps, find that in that contest, there will be blows to take as well as blows to give; that others can state comparisons as significant, at least, as his own, and that his impunity may possibly demand of him whatever powers of taunt and sarcasm he may possess. I commend him to a prudent husbandry of his resources. * * *

On yet another point, I was still more unac-

countably misunderstood. The gentlemen had harangued against "consolidation." I told him, in reply, that there was one kind of consolidation to which I was attached, and that was the consolidation of our Union; that this was precisely that consolidation to which I feared others were not attached, and that such consolidation was the very end of the Constitution, the leading object, as they had informed us themselves, which its framers had kept in view. I turned to their communication, and read their very words, "the consolidation of the Union," and expressed my devotion to this sort of consolidation. I said, in terms, that I wished not in the slightest degree to augment the powers of this government; that my object was to preserve, not to enlarge; and that by consolidating the Union I understood no more than the strengthening of the Union, and perpetuating it. Having been thus explicit, having thus read from the printed book the precise words which I adopted, as expressing my own sentiments, it passes comprehension how any man could understand me as contending for an extension of the powers of the government, or for consolidation in that odious sense in which it means an accumulation, in the Federal Government, of the powers properly belonging to the States.

I repeat, sir, that, in adopting the sentiments of the framers of the Constitution, I read their language audibly, and word for word; and I pointed out the distinction, just as fully as I have now done, between the consolidation of the Union and that other obnoxious consolidation which I disclaim.' And yet the honorable member misunderstood me. The gentleman had said that he wished for no fixed revenue, —not a shilling. If by a word he could convert the Capitol into gold, he would not do it. Why all this fear of revenue? Why, sir, because, as the gentleman told us, it tends to consolidation. Now this can mean neither more nor less than that a common revenue is a common interest, and that all common interests tend to preserve the union of the States. I confess I like that tendency; if the gentleman dislikes it, he is right in deprecating a shilling of fixed revenue. So much, sir, for consolidation. * * *[8]

Professing to be provoked by what he chose to consider a charge made by me against South Carolina, the honorable member, Mr. President, has taken up a crusade against New England. Leaving altogether the subject of the public lands, in which his success, perhaps, had been neither distinguished nor satisfactory, and let-

ting go, also, of the topic of the tariff, he sallied forth in a general assault on the opinions, politics, and parties of New England, as they have been exibited in the last thirty years. * * *

New England has, at times, so argues the gentleman, held opinions as dangerous as those which he now holds. Suppose this were so: how should *he* therefore abuse New England? If he find himself countenanced by acts of hers, how is it that, while he relies on these acts, he covers, or seeks to cover, their authors with reproach? But, sir, if in the course of forty years, there have been undue effervescences of party in New England, has the same thing happened nowhere else? Party animosity and party outrage, not in New England, but elsewhere, denounced President Washington, not only as a Federalist, but as a Tory, a British agent, a man who in his high office sanctioned corruption. But does the honorable member suppose, if I had a tender here who should put such an effusion of wickedness and folly into my hand, that I would stand up and read it against the South? Parties ran into great heats again in 1799 and 1800. What was said, sir, or rather what was not said, in those years, against John

Adams, one of the committee that drafted the Declaration of Independence, and its admitted ablest defender on the floor of Congress? If the gentleman wishes to increase his stores of party abuse and frothy violence, if he has a determined proclivity to such pursuits, there are treasures of that sort south of the Potomac, much to his taste, yet untouched. I shall not touch them. * * * The gentleman's purveyors have only catered for him among the productions of one side. I certainly shall not supply the deficiency by furnishing him samples of the other. I leave to him, and to them, the whole concern. It is enough for me to say, that if, in any part of their grateful occupation, if, in all their researches, they find any thing in the history of Massachusetts, or of New England, or in the proceedings of any legislative or other public body, disloyal to the Union, speaking slightingly of its value, proposing to break it up, or recommending non-intercourse with neighboring States, on account of difference in political opinion, then, sir, I give them all up to the honorable gentleman's unrestrained rebuke; expecting, however, that he will extend his buffetings in like manner, *to all similar proceedings, wherever else found.* * * *

Mr. President, in carrying his warfare, such as it is, into New England, the honorable gentleman all along professes to be acting on the defensive. He chooses to consider me as having assailed South Carolina, and insists that he comes forth only as her champion, and in her defence. Sir, I do not admit that I made any attack whatever on South Carolina. Nothing like it. The honorable member, in his first speech, expressed opinions, in regard to revenue and some other topics, which I heard with both pain and surprise. I told the gentleman I was aware that such sentiments were entertained *out* of the Government, but had not expected to find them advanced in it; that I knew there were persons in the South who speak of our Union with indifference or doubt, taking pains to magnify its evils, and to say nothing of its benefits; that the honorable member himself, I was sure, could never be one of these; and I regretted the expression of such opinions as he had avowed, because I thought their obvious tendency was to encourage feelings of disrespect to the Union, and to impair its strength. This, sir, is the sum and substance of all I said on the subject. And this constitutes the attack which called on

the chivalry of the gentleman, in his own opinion, to harry us with such a foray among the party pamphlets and party proceedings in Massachusetts! If he means that I spoke with dissatisfaction or disrespect of the ebullitions of individuals in South Carolina, it is true. But if he means that I assailed the character of the State, her honor, or patriotism, that I reflected on her history or her conduct, he has not the slightest grounds for any such assumption. * * * I shall not acknowledge that the honorable member goes before me in regard for whatever of distinguished talent or distinguished character South Carolina has produced. I claim part of the honor, I partake in the pride of her great names. I claim them for my countrymen, one and all, the Laurenses, the Rutledges, the Pinckneys, the Sumpters, the Marions,—Americans all, whose fame is no more to be hemmed in by State lines than their talents and patriotism were capable of being circumscribed within the same narrow limits. In their day and generation they served and honored the country, and the whole country; and their renown is of the treasures of the whole country. Him whose honored name the gentleman himself bears—does he esteem me less capable of

gratitude for his patriotism, or sympathy for his sufferings, than if his eyes had first opened upon the light of Massachusetts, instead of South Carolina? Sir, does he suppose it in his power to exhibit a Carolina name so bright as to produce envy in my bosom? No, sir; increased gratification and delight, rather. I thank God that, if I am gifted with little of the spirit which is able to raise mortals to the skies, I have yet none, as I trust, of that other spirit which would drag angels down. When I shall be found, sir, in my place here in the Senate, or elsewhere, to sneer at public merit, because it happens to spring up beyond the little limits of my own State or neighborhood; when I refuse, for any such cause, or for any cause, the homage due to American talent, to elevated patriotism, to sincere devotion to liberty and the country; or, if I see an uncommon endowment of Heaven, if I see extraordinary capacity and virtue, in any son of the South; and if, moved by local prejudices or gangrened by State jealousy, I get up here to abate the tithe of a hair from his just character and just fame, may my tongue cleave to the roof of my mouth!

Sir, let me recur to pleasing recollections;

let me indulge in refreshing remembrances of the past; let me remind you that, in early times, no States cherished greater harmony, both of principle and feeling, than Massachusetts and South Carolina. Would to God that harmony might again return! Shoulder to shoulder they went through the Revolution, hand in hand they stood round the administration of Washington, and felt his own great arm lean on them for support. Unkind feeling, if it exist, alienation, and distrust, are the growth, unnatural to such soils, of false principles since sown. They are weeds, the seeds of which that same great arm never scattered.

Mr. President, I shall enter upon no encomium of Massachusetts; she needs none. There she is. Behold her, and judge for yourselves. There is her history; the world knows it by heart. The past, at least, is secure. There is Boston, and Concord, and Lexington, and Bunker Hill; and there they will remain for ever. The bones of her sons, falling in the great struggle for Independence, now lie mingled with the soil of every State from New England to Georgia, and there they will lie forever. And, sir, where American Liberty raised its first voice, and where its youth was nurtured and sustained,

there it still lives, in the strength of its manhood, and full of its original spirit. If discord and disunion shall wound it, if party strife and blind ambition shall hawk and tear it, if folly and madness, if uneasiness under salutary and necessary restraint shall succeed in separating it from that Union, by which alone its existence is made sure, it will stand, in the end, by the side of that cradle in which its infancy was rocked; it will stretch forth its arm with whatever of vigor it may still retain, over the friends who gather round it; and it will fall at last, if fall it must, amidst the profoundest monuments of its own glory, and on the very spot of its origin.*

There yet remains to be performed, Mr. President, by far the most grave and important duty which I feel to be devolved upon me by this occasion. It is to state, and to defend, what I conceive to be the true principles of the Constitution under which we are here assembled. I might well have desired that so weighty a task should have fallen into other and abler hands. I could have wished that it should have been executed by those whose character and experience give weight and influence to their opinions, such as cannot possibly belong to mine. But,

sir, I have met the occasion, not sought it; and I shall proceed to state my own sentiments, without challenging for them any particular regard, with studied plainness, and as much precision as possible.

I understand the honorable gentleman from South Carolina to maintain that it is a right of the State Legislatures to interfere whenever, in their judgment, this government transcends its constitutional limits, and to arrest the operation of its laws.

I understand him to maintain this right, as a right existing *under* the Constitution, not as a right to overthrow it on the ground of extreme necessity, such as would justify violent revolution.

I understand him to maintain an authority on the part of the States, thus to interfere, for the purpose of correcting the exercise of power by the General Government, of checking it and of compelling it to conform to their opinion of the extent of its powers.

I understand him to maintain, that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the General Government, or any branch of it; but that, on the contrary, the

States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the General Government transcends its power.

I understand him to insist, that, if the exigencies of the case, in the opinion of any State government, require it, such State government may, by its own sovereign authority, annul an act of the General Government which it deems plainly and palpably unconstitutional.

This is the sum of what I understand from him to be the South Carolina doctrine, and the doctrine which he maintains. I propose to consider it, and compare it with the Constitution. Allow me to say, as a preliminary remark, that I call this the South Carolina doctrine only because the gentleman himself has so denominated it. I do not feel at liberty to say that South Carolina, as a State, has ever advanced these sentiments. I hope she has not, and never may. That a great majority of her people are opposed to the tariff laws, is doubtless true. That a majority, somewhat less than that just mentioned, conscientiously believe these laws unconstitutional, may probably also be true. But that any majority holds to the right of direct State interference at State discretion, the right

of nullifying acts of Congress by acts of State legislation, is more than I know, and what I shall be slow to believe.

That there are individuals besides the honorable gentleman who do maintain these opinions, is quite certain. I recollect the recent expression of a sentiment, which circumstances attending its utterance and publication justify us in supposing was not unpremeditated. "The sovereignty of the State,—never to be controlled, construed, or decided on, but by her own feelings of honorable justice."[10]

[Mr. HAYNE here rose and said, that, for the purpose of being clearly understood, he would state that his proposition was in the words of the Virginia resolution as follows:—

"That this assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States that are parties thereto

have the right, and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.

Mr. WEBSTER resumed :]

I am quite aware, Mr. President, of the existence of the resolution which the gentleman read, and has now repeated, and that he relies on it as his authority. I know the source, too, from which it is understood to have proceeded. I need not say that I have much respect for the constitutional opinions of Mr. Madison; they would weigh greatly with me always. But before the authority of his opinion be vouched for the gentleman's proposition, it will be proper to consider what is the fair interpretation of that resolution, to which Mr. Madison is understood to have given his sanction. As the gentleman construes it, it is an authority for him. Possibly, he may not have adopted the right construction. That resolution declares, that, *in the case of the dangerous exercise by the General Government of powers not granted, the States may interpose to arrest the progress of the evil.* But how interpose, and what does this declaration purport? Does

it mean no more than that there may be extreme cases, in which the people, in any mode of assembling, may resist usurpation, and relieve themselves from a tyrannical government? No one will deny this. Such resistance is not only acknowledged to be just in America, but in England also. Blackstone admits as much, in the theory, and practice, too, of the English Constitution. We, sir, who oppose the Carolina doctrine, do not deny that the people may, if they choose, throw off any government when it becomes oppressive and intolerable, and erect a better in its stead. We all know that civil institutions are established for the public benefit, and that when they cease to answer the ends of their existence they may be changed. But I do not understand the doctrine now contended for to be that, which, for the sake of distinction, we may call the right of revolution. I understand the gentleman to maintain, that, without revolution, without civil commotion, without rebellion, a remedy for supposed abuse and transgression of the powers of the General Government lies in a direct appeal to the interference of the State governments.

[Mr. HAYNE here arose and said: He did

not contend for the mere right of revolution, but for the right of constitutional resistance. What he maintained was, that in a case of plain, palpable violation of the Constitution by the General Government, a State may interpose; and that this interposition is constitutional.

Mr. WEBSTER resumed:]

So, sir, I understood the gentleman, and am happy to find that I did not misunderstand him. What he contends for is, that it is constitutional to interrupt the administration of the Constitution itself, in the hands of those who are chosen and sworn to administer it," by the direct interference, in form of law, of the States, in virtue of their sovereign capacity. The inherent right in the people to reform their government I do not deny; and they have another right, and that is, to resist unconstitutional laws, without overturning the government. It is no doctrine of mine that unconstitutional laws bind the people. The great question is, Whose prerogative is it to decide on the constitutionality or unconstitutionality of the laws? On that, the main debate hinges. The proposition, that, in case of a supposed violation of the Constitution by

Congress, the States have a constitutional right to interfere and annul the law of Congress is the proposition of the gentleman. I do not admit it. If the gentleman had intended no more than to assert the right of revolution for justifiable cause, he would have said only what all agree to. But I cannot conceive that there can be a middle course, between submission to the laws, when regularly pronounced constitutional, on the one hand, and open resistance, which is revolution or rebellion, on the other. I say, the right of a State to annul a law of Congress cannot be maintained, but on the ground of the inalienable right of man to resist oppression; that is to say, upon the ground of revolution. I admit that there is an ultimate violent remedy, above the Constitution and in defiance of the Constitution, which may be resorted to when a revolution is to be justified. But I do not admit, that, under the Constitution and in conformity with it, there is any mode in which a State government, as a member of the Union, can interfere and stop the progress of the General Government, by force of her own laws, under any circumstances whatever.

This leads us to inquire into the origin of

this government and the source of its power. Whose agent is it? Is it the creature of the State Legislatures, or the creature of the people? If the Government of the United States be the agent of the State governments, then they may control it, provided they can agree in the manner of controlling it; if it be the agent of the people, then the people alone can control it, restrain it, modify, or reform it. It is observable enough, that the doctrine for which the honorable gentleman contends leads him to the necessity of maintaining, not only that this General Government is the creature of the States, but that it is the creature of each of the States, severally, so that each may assert the power for itself of determining whether it acts within the limits of its authority. It is the servant of four-and-twenty masters, of different wills and different purposes, and yet bound to obey all. This absurdity (for it seems no less) arises from a misconception as to the origin of this government and its true character. It is, sir, the people's Constitution, the people's government, made for the people, made by the people, and answerable to the people.[12] The people of the United States have declared that this Constitution shall be supreme law. We must either ad-

mit the proposition, or deny their authority. The States are, unquestionably, sovereign, so far as their sovereignty is not affected by this supreme law. But the State Legislatures, as political bodies, however sovereign, are yet not sovereign over the people. So far as the people have given power to the General Government, so far the grant is unquestionably good, and the Government holds of the people, and not of the State governments. We are all agents of the same supreme power, the people. The General Government and the State governments derive their authority from the same source. Neither can, in relation to the other, be called primary, though one is definite and restricted, and the other general and residuary. The National Government possesses those powers which it can be shown the people have conferred on it, and no more. All the rest belongs to the State governments, or to the people themselves. So far as the people have restrained State sovereignty by the expression of their will, in the Constitution of the United States, so far, it must be admitted, State sovereignty is effectually controlled. I do not contend that it is, or ought to be, controlled farther. The sentiment to which I have re-

ferred propounds that State sovereignty is only to be controlled by its own "feeling of justice" —that is to say, it is not to be controlled at all, for one who is to follow his own feelings is under no legal control. Now, however men may think this ought to be, the fact is that the people of the United States have chosen to impose control on State sovereignties. There are those, doubtless, who wish they had been left without restraint; but the Constitution has ordered the matter differently. To make war, for instance, is an exercise of sovereignty; but the Constitution declares that no State shall make war. To coin money is another exercise of sovereign power; but no State is at liberty to coin money. Again, the Constitution says that no sovereign State shall be so sovereign as to make a treaty. These prohibitions, it must be confessed, are a control on the State sovereignty of South Carolina, as well as of the other States, which does not arise "from her own feelings of honorable justice." The opinion referred to, therefore, is in defiance of the plainest provisions of the Constitution.

There are other proceedings of public bodies which have already been alluded to, and to which I refer again, for the purpose of ascertaining

more fully what is the length and breadth of that doctrine denominated the Carolina doctrine, which the honorable member has now stood up on this floor to maintain. In one of them I find it resolved, that "the tariff of 1828, and every other tariff designed to promote one branch of industry at the expense of others, is contrary to the meaning and intention of the federal compact, and such a dangerous, palpable, and deliberate usurpation of power, by a determined majority, wielding the General Government beyond the limits of its delegated powers, as calls upon the States which compose the suffering minority, in their sovereign capacity, to exercise the powers which, as sovereigns, necessarily devolve upon them when their contract is violated."

Observe, sir, that this resolution holds the tariff of 1828, and every other tariff designed to promote one branch of industry at the expense of another, to be such a dangerous, palpable, and deliberate usurpation of power, as calls upon the States, in their sovereign capacity, to interfere by their own authority. This denunciation, Mr. President, you will please to observe, includes our old tariff of 1816, as well as all others; because that was established to pro

mote the interest of the manufacturers of cotton, to the manifest and admitted injury of the Calcutta cotton trade. Observe, again, that all the qualifications are here rehearsed and charged upon the tariff, which are necessary to bring the case within the gentleman's proposition. The tariff is a usurpation; it is a dangerous usurpation; it is a palpable usurpation; it is a deliberate usurpation. It is such a usurpation, therefore, as calls upon the States to exercise their right of interference. Here is a case, then, within the gentleman's principles, and all his qualifications of his principles. It is a case for action. The Constitution is plainly, dangerously, palpably, and deliberately violated; and the States must interpose their own authority to arrest the law. Let us suppose the State of South Carolina to express the same opinion, by the voice of her Legislature. That would be very imposing; but what then? It so happens that, at the very moment, when South Carolina resolves that the tariff laws are unconstitutional, Pennsylvania and Kentucky resolve exactly the reverse. *They* hold those laws to be both highly proper and strictly constitutional. And now, sir, how does the honorable member propose to deal with this case? How

does he relieve us from this difficulty upon any principle of his? His construction gets us into it; how does he propose to get us out?

In Carolina the tariff is a palpable, deliberate usurpation; Carolina, therefore, may nullify it, and refuse to pay the duties. In Pennsylvania it is both clearly constitutional and highly expedient; and there the duties are to be paid. And yet we live under a government of uniform laws, and under a constitution, too, which contains an express provision, as it happens, that all duties shall be equal in all States. Does not this approach absurdity?

If there be no power to settle such questions, independent of either of the States, is not the whole Union a rope of sand? Are we not thrown back again precisely upon the old Confederation?

It is too plain to be argued. Four-and-twenty interpreters of constitutional law, each with a power to decide for itself, and none with authority to bind any body else, and this constitutional law the only bond of their union! What is such a state of things but a mere connection during pleasure, or to use the phraseology of the times, *during feeling?* And that feeling, too, not the feeling of the people,

who established the Constitution, but the feeling of the State governments.

In another of the South Carolina addresses," having premised that the crisis requires "all the concentrated energy of passion," an attitude of open resistance to the laws of the Union is advised. Open resistance to the laws, then, is the constitutional remedy, the conservative power of the State, which the South Carolina doctrines teach for the redress of political evils, real or imaginary. And its authors further say, that, appealing with confidence to the Constitution itself, to justify their opinions, they cannot consent to try their accuracy by the courts of justice. In one sense, indeed, sir, this is assuming an attitude of open resistance in favor of liberty. But what sort of liberty? The liberty of establishing their own opinions, in defiance of the opinions of all others; the liberty of judging and deciding exclusively themselves, in a matter in which others have as much right to judge and decide as they; the liberty of placing their own opinion above the judgment of all others, above the laws, and above the Constitution. This is their liberty, and this is the fair result of the proposition contended for by the honorable gentle-

man. Or, it may be more properly said, it is identical with it, rather than a result from it. * * *[14]

Sir, the human mind is so constituted, that the merits of both sides of a controversy appear very clear, and very palpable, to those who respectively espouse them; and both sides usually grow clearer as the controversy advances. South Carolina sees unconstitutionality in the tariff; she sees oppression there also, and she sees danger. Pennsylvania, with a vision not less sharp, looks at the same tariff, and sees no such thing in it; she sees it all constitutional, all useful, all safe. The faith of South Carolina is strengthened by opposition, and she now not only sees, but *resolves*, that the tariff is palpably unconstitutional, oppressive, and dangerous; but Pennsylvania, not to be behind her neighbors, and equally willing to strengthen her own faith by a confident asseveration *resolves*, also, and gives to every warm affirmative of South Carolina, a plain, downright, Pennsylvania negative. South Carolina, to show the strength and unity of her opinion, brings her assembly to a unanimity, within seven voices; Pennsylvania, not to be outdone in this respect any more than in others, reduces

her dissentient fraction to a single vote. Now, sir, again, I ask the gentleman, What is to be done? Are these States both right? Is he bound to consider them both right? If not, which is in the wrong? or, rather, which has the best right to decide? And if he, and if I, are not to know what the Constitution means, and what it is, till those two State legislatures, and the twenty-two others, shall agree in its construction, what have we sworn to, when we have sworn to maintain it? I was forcibly struck, sir, with one reflection, as the gentleman went on in his speech. He quoted Mr. Madison's resolutions, to prove that a State may interfere, in a case of deliberate, palpable, and dangerous exercise of a power not granted. The honorable member supposes the tariff law to be such an exercise of power; and that consequently a case has arisen in which the State may, if it see fit, interfere by its own law. Now it so happens, nevertheless, that Mr. Madison deems this same tariff law quite constitutional. Instead of a clear and palpable violation, it is, in his judgment, no violation at all. So that, while they use his authority in a hypothetical case, they reject it in the very case before them. All this, sir, shows the inherent futility,

I had almost used a stronger word, of conceding this power of interference to the State, and then attempting to secure it from abuse by imposing qualifications of which the States themselves are to judge. One of two things is true; either the laws of the Union are beyond the discretion and beyond the control of the States; or else we have no constitution of general government, and are thrust back again to the days of the Confederation. * * *

I must now beg to ask, sir, whence is this supposed right of the States derived? Where do they find the power to interfere with the laws of the Union? Sir, the opinion which the honorable gentleman maintains, is a notion founded in a total misapprehension, in my judgment, of the origin of this government, and of the foundation on which it stands. I hold it to be a popular government, erected by the people; those who administer it, responsible to the people; and itself capable of being amended and modified, just as the people may choose it should be. It is as popular, just as truly emanating from the people, as the State governments. It is created for one purpose; the State governments for another. It has its own powers; they have theirs. There is no

more authority with them to arrest the operation of a law of Congress, than with Congress to arrest the operation of their laws. We are here to administer a constitution emanating immediately from the people, and trusted by them to our administration. It is not the creature of the State governments. * * *

This government, sir, is the independent offspring of the popular will. It is not the creature of State legislatures; nay, more, if the whole truth must be told, the people brought it into existence, established it, and have hitherto supported it, for the very purpose amongst others, of imposing certain salutary restraints on State sovereignties. The States cannot now make war; they cannot contract alliances; they cannot make, each for itself, separate regulations of commerce; they cannot lay imposts; they cannot coin money. If this Constitution, sir, be the creature of State legislatures, it must be admitted that it has obtained a strange control over the volitions of its creators.

The people, then, sir, erected this government. They gave it a constitution, and in that constitution they have enumerated the powers which they bestow on it. They have made it

a limited government. They have defined its authority. They have restrained it to the exercise of such powers as are granted; and all others, they declare, are reserved to the States, or the people. But, sir, they have not stopped here. If they had, they would have accomplished but half their work. No definition can be so clear as to avoid the possibility of doubt; no limitation so precise, as to exclude all uncertainty. Who, then, shall construe this grant of the people? Who shall interpret their will, where it may be supposed they have left it doubtful? With whom do they repose this ultimate right of deciding on the powers of the government? Sir, they have settled all this in the fullest manner. They have left it with the government itself, in its appropriate branches. Sir, the very chief end, the main design, for which the whole Constitution was framed and adopted, was to establish a government that should not be obliged to act through State agency, or depend on State opinion or State discretion. The people had had quite enough of that kind of government under the Confederation. Under that system, the legal action, the application of law to individuals, belonged exclusively to the States. Congress could only

recommend; their acts were not of binding force, till the States had adopted and sanctioned them. Are we in that condition still? Are we yet at the mercy of State discretion and State construction? Sir, if we are, then vain will be our attempt to maintain the Constitution under which we sit.

But, sir, the people have wisely provided, in the Constitution itself, a proper, suitable mode and tribunal for settling questions of constitutional law. There are in the Constitution grants of powers to Congress, and restrictions on these powers. There are also prohibitions on the States. Some authority must, therefore, necessarily exist, having the ultimate jurisdiction to fix and ascertain the interpretation of these grants, restrictions, and prohibitions. The Constitution has itself pointed out, ordained, and established that authority. How has it accomplished this great and essential end? By declaring, sir, that "*the Constitution and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, any thing in the Constitution or laws of any State to the contrary notwithstanding.*"

This, sir, was the first great step. By this the supremacy of the Constitution and the laws

of the United States is declared. The people so will it. No State law is to be valid which comes in conflict with the Constitution, or any law of the United States passed in pursuance of it. But who shall decide this question of interference? To whom lies the last appeal? This, sir, the Constitution itself decides also, by declaring, "*that the judicial power shall extend to all cases arising under the Constitution and laws of the United States.*" These two provisions cover the whole ground. They are, in truth, the keystone of the arch! With these it is a government, without them a confederation. In pursuance of these clear and express provisions, Congress established, at its very first session, in the judicial act, a mode for carrying them into full effect, and for bringing all questions of constitutional power to the final decision of the Supreme Court. It then, sir, became a government. It then had the means of self-protection; and but for this, it would, in all probability, have been now among things which are past. Having constituted the Government, and declared its powers, the people have further said, that, since somebody must decide on the extent of these powers, the Government shall itself decide; subject, always, like other

popular governments, to its responsibility to the people. And now, sir, I repeat, how is it that a State legislature acquires any power to interfere? Who, or what gives them the right to say to the people: "We, who are your agents and servants for one purpose, will undertake to decide, that your other agents and servants, appointed by you for another purpose, have transcended the authority you gave them!" The reply would be, I think, not impertinent: "Who made you a judge over another's servants? To their own masters they stand or fall."

Sir, I deny this power of State legislatures altogether. It cannot stand the test of examination. Gentlemen may say, that, in an extreme case, a State government may protect the people from intolerable oppression. Sir, in such a case the people might protect themselves without the aid of the State governments. Such a case warrants revolution. It must make, when it comes, a law for itself. A nullifying act of a State legislature cannot alter the case, nor make resistance any more lawful. In maintaining these sentiments, sir, I am but asserting the rights of the people. I state what they have declared, and insist on their right to declare it.

They have chosen to repose this power in the General Government, and I think it my duty to support it like other constitutional powers.

For myself, sir, I do not admit the competency of South Carolina or any other State to prescribe my constitutional duty; or to settle, between me and the people the validity of laws of Congress for which I have voted. I decline her umpirage. I have not sworn to support the Constitution according to her construction of the clauses. I have not stipulated by my oath of office or otherwise, to come under any responsibility, except to the people, and those whom they have appointed to pass upon the question, whether laws, supported by my votes, conform to the Constitution of the country. And, sir, if we look to the general nature of the case, could any thing have been more preposterous than to make a government for the whole Union, and yet leave its powers subject, not to one interpretation, but to thirteen or twenty-four interpretations? Instead of one tribunal, established by all, responsible to all, with power to decide for all, shall constitutional questions be left to four-and-twenty popular bodies, each at liberty to decide for itself, and none bound to respect the decisions.

of others; and each at liberty, too, to give a new constitution on every new election of its own members? Would any thing, with such a principle in it, or rather with such a destitution of all principle be fit to be called a government? No, sir. It should not be denominated a constitution. It should be called, rather, a collection of topics for everlasting controversy; heads of debate for a disputatious people. It would not be a government. It would not be adequate to any practical good, or fit for any country to live under.

To avoid all possibility of being misunderstood, allow me to repeat again in the fullest manner, that I claim no powers for the government by forced or unfair construction. I admit that it is a government of strictly limited powers; of enumerated, specified, and particularized powers; and that whatsoever is not granted is witheld. But notwithstanding all this, and however the grant of powers may be expressed, its limit and extent may yet, in some cases, admit of doubt; and the General Government would be good for nothing, it would be incapable of long existing, if some mode had not been provided in which those doubts as they should arise, might be peaceably but authoritatively solved.[15]

And now, Mr. President, let me run the honorable gentleman's doctrine a little into its practical application. Let us look at his probable *modus operandi*. If a thing can be done, an ingenious man can tell *how* it is to be done, and I wish to be informed *how* this State interference is to be put in practice, without violence, bloodshed, and rebellion. We will take the existing case of the tariff law. South Carolina is said to have made up her opinion upon it. If we do not repeal it (as we probably shall not), she will then apply to the case the remedy of her doctrine. She will, we must suppose, pass a law of her legislature, declaring the several acts of Congress, usually called the tariff laws, null and void, so far as they respect South Carolina, or the citizens thereof. So far, all is a paper transaction, and easy enough. But the collector at Charleston is collecting the duties imposed by these tariff laws. He, therefore, must be stopped. The collector will seize the goods if the tariff duties are not paid. The State authorities will undertake their rescue, the marshal, with his posse, will come to the collector's aid, and here the contest begins. The militia of the State will be called out to sustain the nullifying act. They will march,

sir, under a very gallant leader; for I believe the honorable member himself commands the militia of that part of the State. He will raise the NULLIFYING ACT on his standard, and spread it out as his banner! It will have a preamble, setting forth, that the tariff laws are palpable, deliberate, and dangerous violations of the Constitution! He will proceed, with this banner flying, to the custom-house in Charleston,

> "All the while,
> Sonorous metal blowing martial sounds."

Arrived at the custom-house, he will tell the collector that he must collect no more duties under any of the tariff laws. This he will be somewhat puzzled to say, by the way, with a grave countenance, considering what hand South Carolina herself had in that of 1816. But, sir, the collector would not, probably, desist at his bidding. He would show him the law of Congress, the treasury instruction, and his own oath of office. He would say, he should perform his duty, come what come might.

Here would ensue a pause; for they say that a certain stillness precedes the tempest. The

trumpeter would hold his breath awhile, and before all this military array should fall on the custom-house, collector, clerks, and all, it is very probable some of those composing it would request of their gallant commander-in-chief to be informed upon a little point of law; for they have doubtless, a just respect for his opinions as a lawyer, as well as for his bravery as a soldier. They know he has read Blackstone and the Constitution, as well as Turenne and Vauban.[16] They would ask him, therefore, somewhat concerning their rights in this matter. They would inquire whether it was not somewhat dangerous to resist a law of the United States. What would be the nature of their offence, they would wish to learn, if they, by military force and array, resisted the execution in Carolina of a law of the United States, and it should turn out, after all, that the law *was constitutional?* He would answer, of course, treason. No lawyer could give any other answer. John Fries, he would tell them, had learned that some years ago.[17] How, then, they would ask, do you propose to defend us? We are not afraid of bullets, but treason has a way of taking people off that we do not much relish. How do you propose to defend

us? "Look at my floating banner," he would reply; "see there the nullifying law!"

Is it your opinion, gallant commander, they would then say, that, if we should be indicted for treason, that same floating banner of yours would make a good plea in bar? "South Carolina is a sovereign State," he would reply. That is true; but would the judge admit our plea? "These tariff laws," he would repeat, "are unconstitutional, palpably, deliberately, dangerously." That may all be so; but if the tribunal should not happen to be of that opinion, shall we swing for it? We are ready to die for our country, but it is rather an awkward business, this dying without touching the ground! After all, that is a sort of hemp tax worse than any part of the tariff.

Mr. President, the honorable gentleman would be in a dilemma, like that of another great general. He would have a knot before him which he could not untie. He must cut it with his sword. He must say to his followers, "Defend yourselves with your bayonets"; and this is war—civil war.

Direct collision, therefore, between force and force, is the unavoidable result of that remedy for the revision of unconstitutional laws which

the gentleman contends for. It must happen in the very first case to which it is applied. Is not this the plain result? To resist by force the execution of a law, generally, is treason. Can the courts of the United States take notice of the indulgence of a State to commit treason? The common saying, that a State cannot commit treason herself, is nothing to the purpose. Can she authorize others to do it? If John Fries had produced an act of Pennsylvania, annulling the law of Congress, would it have helped his case? Talk about it as we will, these doctrines go the length of revolution. They are incompatible with any peaceable administration of the government. They lead directly to disunion and civil commotion; and therefore it is, that at their commencement, when they are first found to be maintained by respectable men, and in a tangible form, I enter my public protest against them all.

The honorable gentleman argues that, if this Government be the sole judge of the extent of its own powers, whether that right of judging be in Congress or the Supreme Court, it equally subverts State sovereignty. This the gentleman sees, or thinks he sees, although he cannot perceive how the right of judging, in this mat-

ter, if left to the exercise of State legislatures, has any tendency to subvert the government of the Union. The gentleman's opinion may be, that the right *ought not* to have been lodged with the General Government; he may like better such a Constitution as we should have had under the right of State interference; but I ask him to meet me on the plain matter of fact. I ask him to meet me on the Constitution itself. I ask him if the power is not found there, clearly and visibly found there?

But, sir, what is this danger, and what are the grounds of it? Let it be remembered that the Constitution of the United States is not unalterable. It is to continue in its present form no longer than the people who established it shall choose to continue it. If they shall become convinced that they have made an injudicious or inexpedient partition and distribution of power between the State governments and the General Government, they can alter that distribution at will.

If any thing be found in the national Constitution, either by original provision or subsequent interpretation, which ought not to be in it, the people know how to get rid of it. If any construction, unacceptable to them, be

established so as to become practically a part of the Constitution, they will amend it, at their own sovereign pleasure. But while the people choose to maintain it as it is, while they are satisfied with it, and refuse to change it, who has given, or who can give, to the legislatures a right to alter it, either by interference, construction, or otherwise? Gentlemen do not seem to recollect that the people have any power to do any thing for themselves. They imagine there is no safety for them, any longer than they are under the close guardianship of the State legislatures. Sir, the people have not trusted their safety, in regard to the General Constitution, to these hands. They have required other security, and taken other bonds. They have chosen to trust themselves, first, to the plain words of the instrument, and to such construction as the Government themselves, in doubtful cases, should put on their powers, under their oaths of office, and subject to their responsibility to them, just as the people of a State trust to their own governments with a similar power. Secondly, they have reposed their trust in the efficacy of frequent elections, and in their own power to remove their own servants and agents whenever they see cause.

Thirdly, they have reposed trust in the judicial power, which, in order that it might be trustworthy, they have made as respectable, as disinterested, and as independent as was practicable. Fourthly, they have seen fit to rely, in case of necessity, or high expediency, on their known and admitted power to alter or amend the Constitution, peaceably and quietly, whenever experience shall point out defects or imperfections. And, finally, the people of the United States have at no time, in no way, directly or indirectly, authorized any State legislature to construe or interpret *their* high instrument of government; much less to interfere, by their own power, to arrest its course and operation.

If, sir, the people in these respects had done otherwise than they have done, their Constitution could neither have been preserved, nor would it have been worth preserving. And if its plain provisions shall now be disregarded, and these new doctrines interpolated in it, it will become as feeble and helpless a being as its enemies, whether early or more recent, could possibly desire. It will exist in every State but as a poor dependent on State permission. It must borrow leave to be; and will be, no

longer than State pleasure, or State discretion, sees fit to grant the indulgence, and to prolong its poor existence.

But, sir, although there are fears, there are hopes also. The people have preserved this, their own chosen Constitution, for forty years, and have seen their happiness, prosperity, and renown grow with its growth, and strengthen with its strength. They are now, generally, strongly attached to it. Overthrown by direct assault, it cannot be; evaded, undermined, NULLIFIED, it will not be, if we, and those who shall succeed us here, as agents and representatives of the people, shall conscientiously and vigilantly discharge the two great branches of our public trust, faithfully to preserve and wisely to administer it.

Mr. President, I have thus stated the reasons of my dissent to the doctrines which have been advanced and maintained. I am conscious of having detained you and the Senate much too long. I was drawn into the debate with no previous deliberation, such as is suited to the discussion of so grave and important a subject. But it is a subject of which my heart is full, and I have not been willing to suppress the utterance of its spontaneous sentiments. I cannot,

even now, persuade myself to relinquish it, without expressing, once more my deep conviction, that, since it respects nothing less than the union of the States, it is of most vital and essential importance to the public happiness. I profess, sir, in my career hitherto, to have kept steadily in view the prosperity and honor of the whole country, and the preservation of our Federal Union. It is to that Union we owe our safety at home, and our consideration and dignity abroad. It is to that Union that we are chiefly indebted for whatever makes us most proud of our country. That Union we reached only by the discipline of our virtues in the severe school of adversity. It had its origin in the necessities of disordered finance, prostrate commerce, and ruined credit. Under its benign influences, these great interests immediately awoke, as from the dead, and sprang forth with newness of life. Every year of its duration has teemed with fresh proofs of its utility and its blessings; and although our territory has stretched out wider and wider, and our population spread farther and farther, they have not outrun its protection or its benefits. It has been to us all a copious fountain of national, social, and personal happiness.

I have not allowed myself, sir, to look beyond the Union, to see what might lie hidden in the dark recess behind. I have not coolly weighed the chances of preserving liberty when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion, to see whether, with my short sight, I can fathom the depth of the abyss below; nor could I regard him as a safe counsellor in the affairs of this Government, whose thoughts should be mainly bent on considering, not how the Union may be best preserved, but how tolerable might be the condition of the people when it should be broken up and destroyed. While the Union lasts we have high, exciting, gratifying prospects spread out before us, for us and our children. Beyond that I seek not to penetrate the veil. God grant that in my day at least that curtain may not rise! God grant that on my vision never may be opened what lies behind! When my eyes shall be turned to behold for the last time the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union: on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal

blood! Let their last feeble and lingering glance rather behold the gorgeous ensign of the Republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, not a single star obscured, bearing for its motto, no such miserable interrogotary as "What is all this worth?" nor those other words of delusion and folly, "Liberty first and Union afterward"; but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart,—Liberty *and* Union, now and forever, one and inseparable![18]

JOHN C. CALHOUN,*

OF SOUTH CAROLINA.[1]

(BORN 1782, DIED 1850.)

ON NULLIFICATION AND THE FORCE BILL, IN THE UNITED STATES SENATE, FEB. 15, 1833.[2]

MR. PRESIDENT:

At the last session of Congress, it was avowed on all sides that the public debt, as to all practical purposes, was in fact paid, the small surplus remaining being nearly covered by the money in the Treasury and the bonds for duties which had already accrued; but with the arrival of this event our last hope was doomed to be disappointed. After a long session of many months, and the most earnest effort on the part of South Carolina and the other Southern States to obtain relief, all that could be effected was a small reduction in the amount of the duties, but a reduction of such a character that, while it diminished the

* For notes on Calhoun see Appendix, p. 393.

amount of burden, it distributed that burden more unequally than even the obnoxious act of 1828; reversing the principle adopted by the bill of 1816, of laying higher duties on the unprotected than the protected articles, by repealing almost entirely the duties laid upon the former, and imposing the burden almost entirely on the latter. It was thus that, instead of relief—instead of an equal distribution of burdens and benefits of the government, on the payment of the debt, as had been fondly anticipated,—the duties were so arranged as to be, in fact, bounties on one side and taxation on the other; thus placing the two great sections of the country in direct conflict in reference to its fiscal action, and thereby letting in that flood of political corruption which threatens to sweep away our Constitution and our liberty.

This unequal and unjust arrangement was pronounced, both by the administration, through its proper organ, the Secretary of the Treasury, and by the opposition, to be a *permanent* adjustment; and it was thus that all hope of relief through the action of the General Government terminated; and the crisis so long apprehended at length arrived, at which

the State was compelled to choose between absolute acquiescence in a ruinous system of oppression, or a resort to her reserved powers—powers of which she alone was the rightful judge, and which only, in this momentous juncture, could save her. She determined on the latter.

The consent of two thirds of her Legislature was necessary for the call of a convention, which was considered the only legitimate organ through which the people, in their sovereignty, could speak. After an arduous struggle the States-right party succeeded; more than two thirds of both branches of the Legislature favorable to a convention were elected; a convention was called—the ordinance adopted. The convention was succeeded by a meeting of the Legislature, when the laws to carry the ordinance into execution were enacted—all of which have been communicated by the President, have been referred to the Committee on the Judiciary, and this bill is the result of their labor.

Having now corrected some of the prominent misrepresentations as to the nature of this controversy, and given a rapid sketch of the movement of the State in reference to it, I will

next proceed to notice some objections connected with the ordinance and the proceedings under it.

The first and most prominent of these is directed against what is called the test oath,[3] which an effort has been made to render odious. So far from deserving the denunciation that has been levelled against it, I view this provision of the ordinance as but the natural result of the doctrines entertained by the State, and the position which she occupies. The people of Carolina believe that the Union is a union of States, and not of individuals; that it was formed by the States, and that the citizens of the several States were bound to it through the acts of their several States; that each State ratified the Constitution for itself, and that it was only by such ratification of a State that any obligation was imposed upon its citizens. Thus believing, it is the opinion of the people of Carolina that it belongs to the State which has imposed the obligation to declare, in the last resort, the extent of this obligation, as far as her citizens are concerned; and this upon the plain principles which exist in all analogous cases of compact between sovereign bodies. On this principle the people of the State, act-

ing in their sovereign capacity in convention, precisely as they did in the adoption of their own and the Federal Constitution, have declared, by the ordinance, that the acts of Congress which imposed duties under the authority to lay imposts, were acts not for revenue, as intended by the Constitution, but for protection, and therefore null and void. The ordinance thus enacted by the people of the State themselves, acting as a sovereign community, is as obligatory on the citizens of the State as any portion of the Constitution. In prescribing, then, the oath to obey the ordinance, no more was done than to prescribe an oath to obey the Constitution. It is, in fact, but a particular oath of allegiance, and in every respect similar to that which is prescribed, under the Constitution of the United States, to be administered to all the officers of the State and Federal Governments; and is no more deserving the harsh and bitter epithets which have been heaped upon it than that or any similar oath. It ought to be borne in mind that, according to the opinion which prevails in Carolina, the right of resistance to the unconstitutional acts of Congress belongs to the State, and not to her individual citizens; and that, though the

latter may, in a mere question of *meum* and *tuum*, resist through the courts an unconstitutional encroachment upon their rights, yet the final stand against usurpation rests not with them, but with the State of which they are members; and such act of resistance by a State binds the conscience and allegiance of the citizen. But there appears to be a general misapprehension as to the extent to which the State has acted under this part of the ordinance. Instead of sweeping every officer by a general proscription of the minority, as has been represented in debate, as far as my knowledge extends, not a single individual has been removed. The State has, in fact, acted with the greatest tenderness, all circumstances considered, toward citizens who differed from the majority; and, in that spirit, has directed the oath to be administered only in the case of some official act directed to be performed in which obedience to the ordinance is involved. * * *

It is next objected that the enforcing acts have legislated the United States out of South Carolina. I have already replied to this objection on another occasion, and will now but repeat what I then said: that they have been legislated out only to the extent that they had

no right to enter. The Constitution has admitted the jurisdiction of the United States within the limits of the several States only so far as the delegated powers authorize; beyond that they are intruders, and may rightfully be expelled; and that they have been efficiently expelled by the legislation of the State through her civil process, as has been acknowledged on all sides in the debate, is only a confirmation of the truth of the doctrine for which the majority in Carolina have contended.

The very point at issue between the two parties there is, whether nullification is a peaceful and an efficient remedy against an unconstitutional act of the General Government, and may be asserted, as such, through the State tribunals. Both parties agree that the acts against which it is directed are unconstitutional and oppressive. The controversy is only as to the means by which our citizens may be protected against the acknowledged encroachments on their rights. This being the point at issue between the parties, and the very object of the majority being an efficient protection of the citizens through the State tribunals, the measures adopted to enforce the ordinance, of course received the most decisive character. We were

not children, to act by halves. Yet for acting thus efficiently the State is denounced, and this bill reported, to overrule, by military force, the civil tribunal and civil process of the State! Sir, I consider this bill, and the arguments which have been urged on this floor in its support, as the most triumphant acknowledgment that nullification is peaceful and efficient, and so deeply intrenched in the principles of our system, that it cannot be assailed but by prostrating the Constitution, and substituting the supremacy of military force in lieu of the supremacy of the laws. In fact, the advocates of this bill refute their own argument. They tell us that the ordinance is unconstitutional; that it infracts the constitution of South Carolina, although, to me, the objection appears absurd, as it was adopted by the very authority which adopted the constitution itself. They also tell us that the Supreme Court is the appointed arbiter of all controversies between a State and the General Government. Why, then, do they not leave this controversy to that tribunal? Why do they not confide to them the abrogation of the ordinance, and the laws made in pursuance of it, and the assertion of that supremacy which they claim for the laws

of Congress? The State stands pledged to resist no process of the court. Why, then, confer on the President the extensive and unlimited powers provided in this bill? Why authorize him to use military force to arrest the civil process of the State? But one answer can be given: That, in a contest between the State and the General Government, if the resistance be limited on both sides to the civil process, the State, by its inherent sovereignty, standing upon its reserved powers, will prove too powerful in such a controversy, and must triumph over the Federal Government, sustained by its delegated and limited authority; and in this answer we have an acknowledgment of the truth of those great principles for which the State has so firmly and nobly contended. * * *[5]

Notwithstanding all that has been said, I may say that neither the Senator from Delaware (Mr. Clayton), nor any other who has spoken on the same side, has directly and fairly met the great question at issue: Is this a Federal Union? a union of States, as distinct from that of individuals? Is the sovereignty in the several States, or in the American people in the aggregate? The very language which we are compelled to use when speaking of our

political institutions, affords proof conclusive as to its real character. The terms union, federal, united, all imply a combination of sovereignties, a confederation of States. They never apply to an association of individuals. Who ever heard of the United State of New York, of Massachusetts, or of Virginia? Who ever heard the term federal or union applied to the aggregation of individuals into one community? Nor is the other point less clear—that the sovereignty is in the several States, and that our system is a union of twenty-four sovereign powers, under a constitutional compact, and not of a divided sovereignty between the States severally and the United States? In spite of all that has been said, I maintain that sovereignty is in its nature indivisible. It is the supreme power in a State, and we might just as well speak of half a square, or half of a triangle, as of half a sovereignty. It is a gross error to confound the *exercise* of sovereign powers with *sovereignty* itself, or the *delegation* of such powers with the *surrender* of them. A sovereign may delegate his powers to be exercised by as many agents as he may think proper, under such conditions and with such limitations as he may im-

pose; but to surrender any portion of his sovereignty to another is to annihilate the whole. The Senator from Delaware (Mr. Clayton) calls this metaphysical reasoning, which he says he cannot comprehend. If by metaphysics he means that scholastic refinement which makes distinctions without difference, no one can hold it in more utter contempt than I do; but if, on the contrary, he means the power of analysis and combination—that power which reduces the most complex idea into its elements, which traces causes to their first principle, and, by the power of generalization and combination, unites the whole in one harmonious system—then, so far from deserving contempt, it is the highest attribute of the human mind. It is the power which raises man above the brute—which distinguishes his faculties from mere sagacity, which he holds in common with inferior animals. It is this power which has raised the astronomer from being a mere gazer at the stars to the high intellectual eminence of a Newton or a Laplace, and astronomy itself from a mere observation of insulated facts into that noble science which displays to our admiration the system of the universe.[6] And shall this high power of the mind, which has effected

such wonders when directed to the laws which control the material world, be forever prohibited, under a senseless cry of metaphysics, from being applied to the high purposes of political science and legislation? I hold them to be subject to laws as fixed as matter itself, and to be as fit a subject for the application of the highest intellectual power. Denunciation may, indeed fall upon the philosophical inquirer into these first principles, as it did upon Galileo and Bacon, when they first unfolded the great discoveries which have immortalized their names; but the time will come when truth will prevail in spite of prejudice and denunciation, and when politics and legislation will be considered as much a science as astronomy and chemistry.

In connection with this part of the subject, I understood the Senator from Virginia (Mr. Rives) to say that sovereignty was divided, and that a portion remained with the States severally, and that the residue was vested in the Union. By Union, I suppose the Senator meant the United States. If such be his meaning—if he intended to affirm that the sovereignty was in the twenty-four States, in whatever light he may view them, our opinions will not disagree; but according to my con-

ception, the whole sovereignty is in the several States, while the exercise of sovereign power is divided—a part being exercised under compact, through this General Government, and the residue through the separate State Governments. But if the Senator from Virginia (Mr. Rives) means to assert that the twenty-four States form but one community, with a single sovereign power as to the objects of the Union, it will be but the revival of the old question, of whether the Union is a union between States, as distinct communities, or a mere aggregate of the American people, as a mass of individuals; and in this light his opinions would lead directly to consolidation. * * *

Disguise it as you may, the controversy is one between power and liberty; and I tell the gentlemen who are opposed to me, that, as strong as may be the love of power on their side, the love of liberty is still stronger on ours. History furnishes many instances of similar struggles, where the love of liberty has prevailed against power under every disadvantage, and among them few more striking than that of our own Revolution; where, as strong as was the parent country, and feeble as were the colonies, yet, under the impulse of liberty, and the

blessing of God, they gloriously triumphed in the contest. There are, indeed, many striking analogies between that and the present controversy. They both originated substantially in the same cause—with this difference—in the present case, the power of taxation is converted into that of regulating industry; in the other, the power of regulating industry, by the regulation of commerce, was attempted to be converted into the power of taxation.[8] Were I to trace the analogy further, we should find that the perversion of the taxing power, in the one case, has given precisely the same control to the Northern section over the industry of the Southern section of the Union, which the power to regulate commerce gave to Great Britain over the industry of the colonies in the other; and that the very articles in which the colonies were permitted to have a free trade, and those in which the mother-country had a monopoly, are almost identically the same as those in which the Southern States are permitted to have a free trade by the act of 1832, and in which the Northern States have, by the same act, secured a monopoly. The only difference is in the means. In the former, the colonies were permitted to have a free trade with all

countries south of Cape Finisterre, a cape in the northern part of Spain; while north of that, the trade of the colonies was prohibited, except through the mother-country, by means of her commercial regulations. If we compare the products of the country north and south of Cape Finisterre, we shall find them almost identical with the list of the protected and unprotected articles contained in the list of last year. Nor does the analogy terminate here. The very arguments resorted to at the commencement of the American Revolution, and the measures adopted, and the motives assigned to bring on that contest (to enforce the law), are almost identically the same.

But to return from this digression to the consideration of the bill. Whatever difference of opinion may exist upon other points, there is one on which I should suppose there can be none; that this bill rests upon principles which, if carried out, will ride over State sovereignties, and that it will be idle for any advocates hereafter to talk of State rights. The Senator from Virginia (Mr. Rives) says that he is the advocate of State rights; but he must permit me to tell him that, although he may differ in premises from the other gentlemen with whom he acts

on this occasion, yet, in supporting this bill, he obliterates every vestige of distinction between him and them, saving only that, professing the principles of '98, his example will be more pernicious than that of the most open and bitter opponent of the rights of the States. I will also add, what I am compelled to say, that I must consider him (Mr. Rives) as less consistent than our old opponents, whose conclusions were fairly drawn from their premises, while his premises ought to have led him to opposite conclusions. The gentleman has told us that the new-fangled doctrines, as he chooses to call them, have brought State rights into disrepute. I must tell him, in reply, that what he calls new-fangled are but the doctrines of '98; and that it is he (Mr. Rives), and others with him, who, professing these doctrines, have degraded them by explaining away their meaning and efficacy. He (Mr. R.) has disclaimed, in behalf of Virginia, the authorship of nullification. I will not dispute that point. If Virginia chooses to throw away one of her brightest ornaments, she must not hereafter complain that it has become the property of another. But while I have, as a representative of Carolina, no right to complain of the disavowal of the Sena-

tor from Virginia, I must believe that he (Mr. R.) has done his native State great injustice by declaring on this floor, that when she gravely resolved, in '98, that "in cases of deliberate and dangerous infractions of the Constitution, the States, as parties to the compact, have the right, and are in duty bound, to interpose to arrest the progress of the evil, and to maintain within their respective limits the authorities, rights, and liberties appertaining to them," she meant no more than to proclaim the right to protest and to remonstrate. To suppose that, in putting forth so solemn a declaration, which she afterward sustained by so able and elaborate an argument, she meant no more than to assert what no one had ever denied, would be to suppose that the State had been guilty of the most egregious trifling that ever was exhibited on so solemn an occasion.

THOMAS H. BENTON,*

OF MISSOURI.[1]

(BORN 1782, DIED 1858.)

ON THE EXPUNGING RESOLUTION[2] — UNITED STATES SENATE, JANUARY 12, 1837.†

MR. PRESIDENT:

It is now near three years since the resolve was adopted by the Senate, which it is my present motion to expunge from the journal. At the moment that this resolve was adopted, I gave notice of my intention to move to expunge it; and then expressed my confident belief that the motion would eventually prevail. That expression of confidence was not an ebullition of vanity, or a presumptuous cal-

* For notes on Benton, see Appendix, p. 399.

† Benton in his *Thirty Years' View* very curiously gives an inaccurate date for his own resolution. He gives the 16th of March. The record of censure is to be read on the book under the black lines as plain to-day as ever. See Schouler's *United States History*, vol. iv., pp. 238, 239.

culation, intended to accelerate the event it affected to foretell. It was not a vain boast, or an idle assumption, but was the result of a deep conviction of the injustice done President Jackson, and a thorough reliance upon the justice of the American people. I felt that the President had been wronged; and my heart told me that this wrong would be redressed! The event proves that I was not mistaken. The question of expunging this resolution has been carried to the people, and their decision has been had upon it. They decide in favor of the expurgation; and their decision has been both made and manifested, and communicated to us in a great variety of ways. A great number of States have expressly instructed their senators to vote for this expurgation. A very great majority of the States have elected senators and representatives to Congress, upon the express ground of favoring this expurgation. The Bank of the United States, which took the initiative in the accusation against the President, and furnished the material, and worked the machinery which was used against him, and which was then so powerful on this floor, has become more and more odious to the public mind, and

musters now but a slender phalanx of friends in the two Houses of Congress. The late Presidential election furnishes additional evidence of public sentiment. The candidate who was the friend of President Jackson, the supporter of his administration, and the avowed advocate for the expurgation, has received a large majority of the suffrages of the whole Union, and that after an express declaration of his sentiments on this precise point. The evidence of the public will, exhibited in all these forms, is too manifest to be mistaken, too explicit to require illustration, and too imperative to be disregarded. Omitting details and specific enumeration of proofs, I refer to our own files for the instructions to expunge,—to the complexion of the two Houses for the temper of the people,—to the denationalized condition of the Bank of the United States for the fate of the imperious accuser,—and to the issue of the Presidential election for the answer of the Union.

All these are pregnant proofs of the public will, and the last pre-eminently so: because, both the question of the expurgation, and the form of the process, were directly put in issue upon it. * * *

Assuming, then, that we have ascertained the

will of the people on this great question, the inquiry presents itself, how far the expression of that will ought to be conclusive of our action here.[2] I hold that it ought to be binding and obligatory upon us; and that, not only upon the principles of representative government, which requires obedience to the known will of the people, but also in conformity to the principles upon which the proceeding against President Jackson was conducted when the sentence against him was adopted. Then everything was done with especial reference to the will of the people. Their impulsion was assumed to be the sole motive to action; and to them the ultimate verdict was expressly referred. The whole machinery of alarm and pressure—every engine of political and moneyed power—was put in motion, and worked for many months, to excite the people against the President; and to stir up meetings, memorials, petitions, travelling committees, and distress deputations against him; and each symptom of popular discontent was hailed as an evidence of public will, and quoted here as proof that the people demanded the condemnation of the President. Not only legislative assemblies, and memorials from large assemblies, were then produced here as evi-

dence of public opinion, but the petitions of boys under age, the remonstrances of a few signers, and the results of the most inconsiderable elections were ostentatiously paraded and magnified, as the evidence of the sovereign will of our constituents. Thus, sir, the public voice was everything, while that voice, partially obtained through political and pecuniary machinations, was adverse to the President. Then the popular will was the shrine at which all worshipped. Now, when that will is regularly, soberly, repeatedly, and almost universally expressed through the ballot-boxes, at the various elections, and turns out to be in favor of the President, certainly no one can disregard it, nor otherwise look at it than as the solemn verdict of the competent and ultimate tribunal upon an issue fairly made up, fully argued, and duly submitted for decision. As such verdict, I receive it. As the deliberate verdict of the sovereign people, I bow to it. I am content. I do not mean to reopen the case, nor to recommence the argument. I leave that work to others, if any others choose to perform it. For myself, I am content; and, dispensing with further argument, I shall call for judgment, and ask to have execution done, upon that un-

happy journal, which the verdict of millions of freemen finds guilty of bearing on its face an untrue, illegal, and unconstitutional sentence of condemnation against the approved President of the Republic.

But, while declining to reopen the argument of this question, and refusing to tread over again the ground already traversed, there is another and a different task to perform; one which the approaching termination of President Jackson's administration makes peculiarly proper at this time, and which it is my privilege, and perhaps my duty, to execute, as being the suitable conclusion to the arduous contest in which we have been so long engaged. I allude to the general tenor of his administration, and to its effect, for good or for evil, upon the condition of his country. This is the proper time for such a view to be taken. The political existence of this great man now draws to a close. In little more than forty days he ceases to be an object of political hope to any, and should cease to be an object of political hate, or envy, to all. Whatever of motive the servile and time-serving might have found in his exalted station for raising the altar of adulation, and burning the incense of

praise before him, that motive can no longer exist. The dispenser of the patronage of an empire, the chief of this great confederacy of States, is soon to be a private individual, stripped of all power to reward, or to punish. His own thoughts, as he has shown us in the concluding paragraph of that message which is to be the last of its kind that we shall ever receive from him, are directed to that beloved retirement from which he was drawn by the voice of millions of freemen, and to which he now looks for that interval of repose which age and infirmities require. Under these circumstances, he ceases to be a subject for the ebullition of the passions, and passes into a character for the contemplation of history. Historically, then, shall I view him; and limiting this view to his civil administration, I demand, where is there a chief magistrate of whom so much evil has been predicted, and from whom so much good has come? Never has any man entered upon the chief magistracy of a country under such appalling predictions of ruin and woe! never has any one been so pursued with direful prognostications! never has any one been so beset and impeded by a powerful combination of political and

moneyed confederates! never has any one in any country where the administration of justice has risen above the knife or the bowstring, been so lawlessly and shamelessly tried and condemned by rivals and enemies, without hearing, without defence, without the forms of law and justice! History has been ransacked to find examples of tyrants sufficiently odious to illustrate him by comparison. Language has been tortured to find epithets sufficiently strong to paint him in description. Imagination has been exhausted in her efforts to deck him with revolting and inhuman attributes. Tyrant, despot, usurper; destroyer of the liberties of his country; rash, ignorant, imbecile; endangering the public peace with all foreign nations; destroying domestic prosperity at home; ruining all industry, all commerce, all manufactures; annihilating confidence between man and man; delivering up the streets of populous cities to grass and weeds, and the wharves of commercial towns to the encumbrance of decaying vessels; depriving labor of all reward; depriving industry of all employment; destroying the currency; plunging an innocent and happy people from the summit of felicity to the depths of misery, want, and

despair. Such is the faint outline, followed up by actual condemnation, of the appalling denunciations daily uttered against this one MAN, from the moment he became an object of political competition, down to the concluding moment of his political existence.

The sacred voice of inspiration has told us that there is a time for all things. There certainly has been a time for every evil that human nature admits of to be vaticinated of President Jackson's administration; equally certain the time has now come for all rational and well-disposed people to compare the predictions with the facts, and to ask themselves if these calamitous prognostications have been verified by events? Have we peace, or war, with foreign nations? Certainly, we have peace with all the world! peace with all its benign, and felicitious, and beneficent influences! Are we respected, or despised abroad? Certainly the American name never was more honored throughout the four quarters of the globe than in this very moment. Do we hear of indignity or outrage in any quarter? of merchants robbed in foreign ports? of vessels searched on the high seas? of American citizens impressed into foreign service? of the

national flag insulted anywhere? On the contrary, we see former wrongs repaired; no new ones inflicted. France pays twenty-five millions of francs for spoliations committed thirty years ago; Naples pays two millions one hundred thousand ducats for wrongs of the same date; Denmark pays six hundred and fifty thousand rix-dollars for wrongs done a quarter of a century ago; Spain engages to pay twelve millions of reals vellon for injuries of fifteen years' date; and Portugal, the last in the list of former aggressors, admits her liability and only waits the adjustment of details to close her account by adequate indemnity. So far from war, insult, contempt, and spoliation from abroad, this denounced administration has been the season of peace and good will and the auspicious era of universal reparation. So far from suffering injury at the hands of foreign powers, our merchants have received indemnities for all former injuries. It has been the day of accounting, of settlement, and of retribution. The total list of arrearages, extending through four successive previous administrations, has been closed and settled up. The wrongs done to commerce for thirty years back, and under so many different Presidents, and indemnities

withheld from all, have been repaired and paid over under the beneficent and glorious administration of President Jackson. But one single instance of outrage has occurred, and that at the extremities of the world, and by a piratical horde, amenable to no law but the law of force. The Malays of Sumatra committed a robbery and massacre upon an American vessel. Wretches! they did not then know that JACKSON was President of the United States! and that no distance, no time, no idle ceremonial of treating with robbers and assassins, was to hold back the arm of justice. Commodore Downes went out. His cannon and his bayonets struck the outlaws in their den. They paid in terror and in blood for the outrage which was committed; and the great lesson was taught to these distant pirates—to our antipodes themselves,—that not even the entire diameter of this globe could protect them, and that the name of American citizen, like that of Roman citizen in the great days of the Republic and of the empire, was to be the inviolable passport of all that wore it throughout the whole extent of the habitable world. * * *

From President Jackson, the country has first learned the true theory and practical intent of

the Constitution, in giving to the Executive a qualified negative on the legislative power of Congress. Far from being an odious, dangerous, or kingly prerogative, this power, as vested in the President, is nothing but a qualified copy of the famous veto power vested in the tribunes of the people among the Romans, and intended to suspend the passage of a law until the people themselves should have time to consider it.[8] The qualified veto of the President destroys nothing; it only delays the passage of a law, and refers it to the people for their consideration and decision. It is the reference of a law, not to a committee of the House, or of the whole House, but to the committee of the whole Union. It is a recommitment of the bill to the people, for them to examine and consider; and if, upon this examination, they are content to pass it, it will pass at the next session. The delay of a few months is the only effect of a veto, in a case where the people shall ultimately approve a law; where they do not approve it, the interposition of the veto is the barrier which saves them the adoption of a law, the repeal of which might afterwards be almost impossible. The qualified negative is, therefore, a beneficent power, intended as General Hamilton ex-

pressly declares in the *Federalist*, to protect, first, the executive department from the encroachments of the legislative department; and, secondly, to preserve the people from hasty, dangerous, or criminal legislation on the part of their representatives. This is the design and intention of the veto power; and the fear expressed by General Hamilton was, that Presidents, so far from exercising it too often, would not exercise it as often as the safety of the people required; that they might lack the moral courage to stake themselves in opposition to a favorite measure of the majority of the two Houses of Congress; and thus deprive the people, in many instances, of their right to pass upon a bill before it becomes a final law. The cases in which President Jackson has exercised the veto power have shown the soundness of these observations. No ordinary President would have staked himself against the Bank of the United States and the two Houses of Congress in 1832. It required President Jackson to confront that power—to stem that torrent—to stay the progress of that charter, and to refer it to the people for their decision. His moral courage was equal to the crisis. He arrested the charter until it could be got to the

people, and they have arrested it forever. Had he not done so, the charter would have become law, and its repeal almost impossible. The people of the whole Union would now have been in the condition of the people of Pennsylvania, bestrode by the monster, in daily conflict with him, and maintaining a doubtful contest for supremacy between the government of a State and the directory of a moneyed corporation.
* * *

Sir, I think it right, in approaching the termination of this great question, to present this faint and rapid sketch of the brilliant, beneficent, and glorious administration of President Jackson. It is not for me to attempt to do it justice; it is not for ordinary men to attempt its history. His military life, resplendent with dazzling events, will demand the pen of a nervous writer; his civil administration, replete with scenes which have called into action so many and such various passions of the human heart, and which has given to native sagacity so many victories over practised politicians, will require the profound, luminous, and philosophical conceptions of a Livy, a Plutarch, or a Sallust. This history is not to be written in our day. The contemporaries of such events

are not the hands to describe them. Time must first do its office—must silence the passions, remove the actors, develop consequences, and canonize all that is sacred to honor, patriotism, and glory. In after ages the historic genius of our America shall produce the writers which the subject demands—men far removed from the contests of this day, who will know how to estimate this great epoch, and how to acquire an immortality for their own names by painting, with a master's hand, the immortal events of the patriot President's life.

And now, sir, I finish the task which, three years ago, I imposed on myself. Solitary and alone, and amidst the jeers and taunts of my opponents, I put this ball in motion. The people have taken it up, and rolled it forward, and I am no longer anything but a unit in the vast mass which now propels it. In the name of that mass I speak. I demand the execution of the edict of the people; I demand the expurgation of that sentence which the voice of a few senators, and the power of their confederate, the Bank of the United States, has caused to be placed on the journal of the Senate; and which the voice of millions of freemen has ordered to be expunged[4] from it.

APPENDIX.

NOTES.

JAMES OTIS.

1. James Otis was born at Barnstable, Massachusetts, February 5, 1725. He was graduated with honors at Harvard in 1743. He became a student of literature and law. The speech on the Writs of Assistance brought him into public notice, and he was soon after elected to the Colonial Assembly, to which position he was re-elected every year until nearly the close of his active life. In 1765 he represented Massachusetts in the Colonial Congress. In 1769 his public career came to a close. On account of a newspaper controversy, he was attacked in a darkened room in a public coffee-house by a dozen men, and wounded by a blow upon the head from which he never recovered. His health gave way and he was subject to frequent attacks of insanity. He was killed by lightning, May 23, 1783.

2. Otis' speech on the Writs of Assistance was delivered before the Superior Court of Massachusetts, in February, 1761. As the Seven Years' War, or "The French and Indian War," between England and France drew to a close, in 1761 and 1762, the British government determined to enforce anew the old commercial laws for the Colonies. These laws had always been obnoxious and had become almost obsolete. John Adams said of them: "They had been procured from time to time for a century before by a combination of selfish intrigues between West India planters and North American

royal governors. They never had been executed as revenue laws, and there never had been a time when they would have been, or could have been, obeyed as such." The Colonies had developed a profitable trade with the West Indies during the relaxation of these laws. In order to break up this trade and other trade in violation of the old Navigation Acts, the British government sent out an order in council directing the issue of Writs of Assistance, which writs would authorize custom-house officers to enter any man's house on suspicion of the concealment of smuggled goods. The legality of the writs was questioned and the court consented to hear argument. Otis was the colonial Advocate-General, an officer of the crown, whose place it was to defend the writs. But, as he believed them illegal and tyrannical, he refused to make an argument for that side of the case, resigned his lucrative office, and appeared for the people against the Writs.

For our account of this speech and the fragment here presented we are indebted to John Adams, who, while a young man of twenty-four, heard Otis before the court. The full speech was a legal argument of five hours' length, profound in its legal learning, fearless in its assertion of Colonial rights, and so fervid in its eloquence that the orator appeared to the young Adams "as a flame of fire." "Then and there," says Adams, "was the first scene in the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born."

It was chiefly on this speech that the fame of Otis rested. This brought him into prominence, and in the same year he was elected to the Colonial Legislature. In 1762 he published his *Vindication of Massachusetts Bay*, and in 1765 his *Vindication of the British Colonies;* also, in the latter year, his *Consideration on Behalf of the Colonists*. These are his principal works and John Adams said that they contained the complete apology for the American Revolution.

3. In the closing parts of John Adams' summary of Otis' speech he says: "He then examined the acts of trade, one by one and demonstrated, that, if they were considered as revenue laws, they destroyed all our security of property, liberty, and life, every right of nature, and the English constitution, and the charter of the province. Here he considered the distinction between 'external and internal taxes,' at that time a popular and commonplace distinction. But he asserted that there was no such distinction in theory, or upon any principle but 'necessity.' The necessity that the commerce of the empire should be under one direction, was obvious. The Americans had been so sensible of this necessity, that they had connived at the distinction between external and internal taxes, and had submitted to the acts of trade as regulations of commerce, but never as taxations or revenue laws. Nor had the British government, till now, ever dared to attempt to enforce them as taxations or revenue laws. They had lain dormant in that character for a century almost. The Navigation Act he allowed to be binding upon us, because we had consented to it by our own legislature. Here he gave a history of the Navigation Act of the first of Charles II., a plagiarism from Oliver Cromwell. This act had lain dormant for fifteen years. In 1675, after repeated letters and orders from the king, Governor Leverett very candidly informs his Majesty that the law had not been executed, because it was thought unconstitutional, Parliament not having authority over us."

References:

1. John Adams' Letter to William Tudor, *Niles Register*, vol. 14, p. 139.

2. Tudor's *Life of Otis*.

3. Woodburn's *Causes of the American Revolution*, pp. 24, 25. "Johns Hopkins University Studies," 10th Series.

4. *Encyclopædia Britannica*, Art. on "Otis."

PATRICK HENRY.

1. Patrick Henry was born at Studley, Hanover County, Virginia, May 29, 1736. His education was received in a country school and under the tutorship of his father, who conducted a grammar school. He failed both as a planter and as a merchant, but in his days of store-keeping he was a great reader of history and a student of Butler's *Analogy* and the Bible. He studied law from three to nine months, and was admitted to the bar in 1760. In 1763 he won the celebrated case known as "The Parson's Cause."* This brought him clients and popularity. In 1765 he was elected to the Burgesses, where he sounded the keynote of independence in his resolutions, one of which was that "The General Assembly of this Colony has the sole right to lay taxes and impositions upon the inhabitants of this Colony." These resolutions are said to have been written on the fly-leaf of a law book, and it was during the debate upon them that occurred the dramatic incident which has long been familiar as one of the stories of the Revolution. In denouncing the Stamp Act while speaking on these resolutions, Henry exclaimed in thrilling tones: "Cæsar had his Brutus; Charles the First, his Cromwell; and George the Third ['Treason!' shouted the Speaker; 'Treason!' 'Treason!' rose from all sides of the room] and George the Third may profit by their example. If this be treason make the most of it."

In 1773 Henry became a member of the Committee of Correspondence "for the dissemination of intelligence between the colonies." In 1774 he was a delegate to the Virginia Convention, and later in the same year to the First Continental Congress. On an early resolution in this Congress, "That in determining questions each Colony shall have one vote," we have another notable utterance of Henry's: "Government is

* See chapter iv. Tyler's *Life of Patrick Henry*.

dissolved. Fleets and armies show that government is dissolved. Where are your landmarks, your boundaries of Colonies? The distinctions between Virginians, New Yorkers, and New Englanders are no more. I am not a Virginian but an American. All America is thrown into one mass." This shows Henry's radical and revolutionary character, and it is interesting in comparison with his speech against the ratification of the Constitution in 1788. His objections to the Constitution, as is known, rested on the belief that that instrument tended too much to nationalize and consolidate the States.

In 1775 Henry was a delegate to the Second Continental Congress. From 1777 to 1780 he was Governor of Virginia; from 1780 to 1784 he was in the Virginia Legislature, being again elected Governor of Virginia in 1784. In 1787 he was chosen as a delegate to the Constitutional Convention but did not attend. In 1788 he was a member of the Virginia Convention which ratified the Constitution, which Henry strenuously opposed. In 1794 he retired from public life, declining in that year an appointment to the United States Senate. He declined successively, in 1795, the Secretaryship of State and the Chief-Justiceship under Washington; in 1796, a re-election to the Governorship of Virginia, having already been elected five times to that office; in 1797, the mission to France under President Adams. Jefferson insinuated that these appointments were offered to Henry to secure his allegiance to the Federal party. He allowed himself again to be elected to the Legislature of Virginia in 1799, although he never lived to take his seat, in order to oppose the Virginia and Kentucky Resolutions of Jefferson and Madison. This would indicate a tendency to a change of political opinions since his speech against ratification in 1788. Henry died on June 6, 1799.

2. This speech was delivered in the Old Church at Richmond, Virginia, March 28, 1775. It has been called Patrick

Henry's individual declaration of war against Great Britain. On March 20, 1775, Virginia's second Revolutionary Convention met. On March 23d, the subject of military preparation came up, when Patrick Henry offered the following resolutions:

"1. *Resolved:* That a well regulated militia, composed of gentlemen and yeomen, is the natural strength and only security of a free government; that such a militia in this Colony would forever render it unnecessary for the mother country to keep among us, for the purpose of our defense, any standing army or mercenary forces, always subversive of the quiet and dangerous to the liberties of the people, and would obviate the pretext of taxing us for their support.

"2. That such a militia is at this time especially necessary to protect our rights and liberties, which have been rendered insecure by the remissness of government in calling our Legislature together.

"3. That this Colony be immediately put into a posture of defense."

3. "These resolutions produced," says St. George Tucker, who was a visitor in the Convention, "an animated debate, in which Colonel Richard Bland, Mr. Nicholas, the treasurer, and I think Colonel Harrison, of Berkeley, and Mr. Pendleton were opposed to the resolution, as conceiving it to be premature."

Professor Tyler thinks that this opposition was not so much to the resolutions themselves as to Henry's interpretation of them. "To that day no public body in America, and no public man, had openly spoken of war with Great Britain in any more decisive way than as a thing highly probable, indeed, but still not inevitable. At last Patrick Henry spoke of it, and he wanted to induce the Convention of Virginia to speak of it, as a thing inevitable. . . . 'Why talk of things being now done which can avert the war? Such things

will not be done. The war is coming ; it has come already.' Patrick Henry would have this Convention, by adopting his resolutions, virtually declare war itself. In this alone, it is apparent, consisted the real priority and offensiveness of Patrick Henry's position as a revolutionary statesman on the 23d of March, 1775. In this alone were his resolutions premature."—Tyler's *Life of Patrick Henry*, p. 122.

4. Our first traditional description of this speech was obtained by Henry Stephens Randall from a clergyman, who had it from an aged friend, also a clergyman, who heard the speech itself : "Henry rose with an unearthly fire burning in his eye. He commenced somewhat calmly, but the smothered excitement began more and more to play upon his features and thrill in the tones of his voice. The tendons of his neck stood out white and rigid like whipcords. His voice rose louder and louder, until the walls of the building, and all within them, seemed to shake and rock in its tremendous vibrations. Finally his pale face and glaring eyes became terrible to look upon. Men leaned forward in their seats, with their heads strained forward, their faces pale, and their eyes glaring like the speaker's. His last exclamation, 'Give me liberty or give me death !' was like the shout of the leader which turns back the rout of battle."—Tyler's *Henry*, p. 129.

For further discussion of this speech and its authenticity, see the following references :

1. Wirt's *Life of Patrick Henry.*
2. Tyler's *Life of Patrick Henry.*
3. Moore's *American Eloquence*, vol. i.
4. *Encyclopædia Britannica.*

SAMUEL ADAMS.

1. Samuel Adams was born in Boston, Mass., September 27, 1722. He was descended from the sturdy republican stock represented by the English Puritans of the time of James I. and Charles I. He studied at Harvard, receiving the degree of A.B. in 1740, of A.M. in 1743. His thesis for the Master's degree showed the bent of his political opinions. He defended the affirmative of the query, "Whether it be lawful to resist the supreme magistrate, if the commonwealth cannot otherwise be preserved?" In 1764 Adams was appointed to prepare the instructions of the town of Boston to their representatives in the General Assembly,—a protest against the taxing scheme of Parliament. This document contains probably the first public denial of the right of Parliament to tax the Colonies, a denial of Parliamentary supremacy, and a suggestion of the necessity of union. In 1765 he was elected to the Massachusetts Assembly. He remained a member and leader of this body, in uncompromising opposition to the British government, until his election to the Continental Congress in 1774. In 1768, while a member of the Massachusetts Assembly, he prepared the celebrated Circular Letter, addressed to the Speakers of the Houses of Assemblies in the other Colonies, one of the most important state papers of that time. In this period, also, he opposes Parliamentary representation of the Colonies, writes the Massachusetts resolves and the response in answer to Governor Bernard, suggests the non-importation scheme, and becomes a persistent speaker and writer for the patriot cause. For nine years following 1774 he was annually re-elected to the Continental Congress, during which time he was continually employed on committees to draft reports, protests, and other public papers. He was one of the earliest and most persistent advocates of independence, and was a signer of the Declaration. In 1780 he was a

member of the Convention which framed the Constitution of Massachusetts. From 1789 to 1794 he was Lieutenant-Governor of his State, and governor from 1794 to 1797. In politics he was an Anti-Federalist and Jeffersonian Republican. He died October 3, 1803.

2. This oration was delivered at the State House in Philadelphia, before a popular audience, August 1, 1776. A full copy of the speech is found in Moore's *American Eloquence*, vol. i.

3. "A nation of shopkeepers" is a celebrated description which Napoleon applied to Great Britain. This speech of Adams was translated into French and published in Paris. Napoleon probably borrowed the phrase.

4. Carthagena, in Spanish America, was attacked by a body of English and Colonial troops and ships. The Colonies north of the Carolinas were summoned to contribute aid. The expedition was unsuccessful. (See Jamieson's *Dictionary of United States History*, p. 115.)

5. Refers to the Articles of Confederation. But these had not yet been adopted by the States.

6. Bancroft has called Adams "the type and representative of the New England town-meeting." Hosmer says: "It was as a manager of men that Samuel Adams was greatest. Such a master of the methods by which a town-meeting may be swayed, the world has never seen."—*Life of Samuel Adams*, p. 363.

Adams entered Harvard with the purpose of preparing for the ministry, and a religious fervor and tendency are apparent in this speech. He was a Puritan of the Puritans, narrow and rigid in his opinions. Hosmer says: "His intensity of conviction, both religious and political, sometimes makes

him narrow. He can speak only in stern terms of a Tory; scarcely otherwise of a Catholic or Episcopalian; to free-thinkers like Franklin and Paine he did not find it easy to be cordial."—*Life of Samuel Adams*, p. 361.

Jefferson wrote of Adams:

"As a speaker Samuel Adams could not be compared with his living colleague and namesake [John Adams], whose deep conceptions, nervous style, and undaunted firmness made him truly our bulwark in debate. But Mr. Samuel Adams, although not of fluent elocution, was so rigorously logical, so clear in his views, abundant in good sense, and master always of his subject that he commanded the most profound attention whenever he rose in an assembly by which the froth of declamation was heard with the most sovereign contempt."

References:

1. Moore's *American Eloquence*, vol. i.
2. Hosmer's *Life of Samuel Adams*.
3. Wells' *Life of Samuel Adams*, 2 vols.
4. Bancroft's *History of the United States*.

ALEXANDER HAMILTON.

1. Alexander Hamilton was born in Nevis, one of the British West India Islands, January 11, 1757. His father was a Scotchman, his mother a French Huguenot. He left the West Indies in 1772, and in 1774 entered King's College, New York (now Columbia). He left college in 1776 to enter the Continental army, was aide-de-camp and private secretary to Washington until 1781, when he returned to New York to prepare for the practice of law. He was in the Continental Congress of 1782–3; in the Constitutional Convention of 1787; was Secretary of the Treasury from 1789 to 1795, when he

returned to the practice of law. He became commander of the United States army in 1798, under Washington ; and was murdered in a duel by Aaron Burr, and died July 12, 1804.

Hamilton's life is too well known to require enlarged description here. His life and character have profoundly influenced the history of his country, and they offer to the student of history a great and worthy subject of study. Hamilton's greatest services to his country were in the period of the old Confederation, in leading the States to "a more perfect union," and later, as Secretary of the Treasury, in restoring the public credit, and establishing the financial system of the United States. In the former period his most notable services were in the New York Convention in securing the adoption of the Constitution by that State, and in his contributions to the *Federalist*. Of the eighty-five papers of the *Federalist* Hamilton was the author of forty-nine. These papers are yet the ablest exposition of the Constitution and government of the United States. Of Hamilton's work as Secretary of the Treasury Webster said, at a public dinner in New York, March 10, 1831 : "Hamilton smote the rock of the national resources, and abundant streams of revenue gushed forth. He touched the dead corpse of the public credit, and it sprang upon its feet. The fabled birth of Minerva from the brain of Jove was hardly more sudden or more perfect than the financial system of the United States as it burst forth from the conception of Alexander Hamilton."

2. This speech is made up of parts of two speeches delivered in the Convention of New York on June 24th and 27th, 1788. The first part is from a speech in opposition to a resolution offered by Mr. Livingston proposing an amendment to the Constitution. The proposed amendment was : "That no person shall be eligible as a Senator for more than six years in any term of twelve years, and that the Legislatures of the sev-

eral States should have power to recall their Senators, or either of them, and to elect others in their stead, to serve for the remainder of the term for which such Senator, or Senators, so recalled, were appointed." The part of the speech applying to this resolution extends to the bottom of page 47; and has for its subject the permanence, stability, and character of the Senate. The rest of the selection is from the speech of June 27, in opposition to an amendment whose object was to abridge the power proposed to be conferred upon Congress, relative to imposing excise and laying direct taxes. More extended extracts from these speeches may be found in Moore's *American Eloquence*, and in *Hamilton's Works*, vol. 1., Lodge's edition.

3. Hamilton was subsequently accused of being a monarchist and of wishing to establish a monarchy in this country.

4. This passage very forcibly sets forth the principle of the limitation of powers between the State and Federal governments. The two sovereignties are both supreme, each in its sphere and over its legitimate objects. Who shall determine the sphere, or objects, over which the sovereignty of each is to be exercised?

5. "That New York did join the Union by vote of the first and only convention summoned to determine her action; that she did not wait to be coerced; that she did not even come in as a laggard like North Carolina, or with hardly conquered reluctance like Rhode Island,—must be attributed to the energy and ability of Hamilton more than to any other single cause."

"The convention went into committee of the whole to consider the Constitution part by part. In the long and difficult debates which ensued, the burden of the controversy was

sustained by Hamilton. Jay and Livingston gave aid from time to time, as able as it was welcome ; but it was Hamilton who, day after day, in a series of speeches as closely reasoned as they were fervent, bore the brunt of the battle and managed the tactics of his party. . . . Incredible as it may seem, there is abundant contemporary evidence that the audience listening to Hamilton's argumentative but eloquent harangues was more than once so visibly affected that tears stood in the eyes of many, and such men as Chancellor Kent could not find words too emphatic to express their admiration. Speeches which embodied the logic of *The Federalist* would hardly be expected to touch the pathetic chord ; thus we think at this day. But not so did people feel in 1788. It should be remembered, too, that Hamilton was by nature a very powerful orator,—one of the greatest that has lived in modern times. In the present instance he spoke upon subjects with which he was so exhaustively familiar, that he could pour forth his ideas in finished shape and consecutive course without forethought or preparation. Never in his life, probably, was he so deeply in earnest as upon this occasion ; his intense nature was wrought up to the extreme of interest. He spoke to persons in a similar frame of mind. . . . It is not incredible, then, that in the course of this dry constitutional discussion Hamilton called tears into the eyes even of disputants quite capable of following and criticising his most accurate logic, his most elaborate arguments. But a great loss and misfortune it is that no report of these speeches, nothing but the baldest outline and occasional jotting down of a striking sentence, has come down to us. In this respect Hamilton has suffered like the elder Pitt, with the additional misfortune, too, that the less noble forum, the less popular topics, and the greatness of the rest of his career have caused even the tradition of his fame as an orator to be half forgotten." (Morse's *Life of Hamilton*, vol. i. p. 249 *et seq.*)

Hamilton's greatest triumph in this convention was in the discussion on conditional ratification. His arguments led Melancthon Smith, Hamilton's ablest and most persistent opponent, to acknowledge that he was convinced, and that he wished to withdraw his motion for conditional ratification. It is seldom a party advocate so manfully acknowledges the strength of his opponent.

References :

Moore's *American Eloquence*, vol. i.

Morse's *Life of Alexander Hamilton*, vol. i.

Lodge's *Life of Hamilton.*

Lalor's *Cyclopædia of American History and Political Science.*

Hamilton's Works, vol. i.

Bancroft's *History of the Constitution.*

JAMES MADISON.

1. James Madison, the fourth President of the United States, was born near Port Royal, Virginia, March 16, 1751. He was graduated from Princeton College, New Jersey, in 1771, where he remained a year in graduate study. He was a close and diligent student, impairing his health by close application to his studies. In 1776 Madison was chosen as a delegate to the Virginia Convention, called to form the first constitution of the State ; and in 1779 he was elected a delegate to the Continental Congress. He was in Congress until a year after the close of the war, constantly favoring such amendments to the Articles of Confederation as would give more power and respectability to Congress and the central government. He was particularly prominent in urging the

grant of authority to Congress to levy an impost duty for twenty years; and on the committee with Hamilton and Ellsworth, Madison drew up the address to the States on this subject,—one of the ablest State papers of that period. From 1784 to 1787 Madison was a member of the Legislature of Virginia. In this period he gave his best thought and energy to the task of securing a better and stronger central government. He was foremost in securing a resolution from the Virginia Legislature calling the Annapolis Convention of 1786, and he readily agreed with Hamilton to use this Convention as the occasion and the means of securing the greater Convention of 1787. The defects of the Confederation had led Madison to make a careful study of all historic confederacies, ancient and modern, and he came to the conclusion that no confederacy could be powerful, nor endure, which merely acted upon States and not upon individuals. Madison became a national statesman. He contributed as much as any other man to the discussions of the Constitutional Convention of 1787, and his *Journal of the Debates* of that body is the most valuable single contribution to American political history. Madison co-operated with Hamilton and Jay in the essays of *The Federalist;* he was the main defense of the Constitution against the assaults of Mason and Henry, in the Virginia Convention of 1788; and more than of any other man it may be said of Madison that he was the father and founder of the American Constitution.

From 1789 till his retirement from public life in 1817 his life is largely the history of his country. He was in Congress from 1789 to 1797, becoming, on the question of constitutional construction, a follower of Jefferson; from 1797 to 1801, he was in private life, becoming the author, in 1798, of the famous Virginia Resolutions; from 1801 to 1809 he was Secretary of State under Jefferson, and was President from 1809 to 1817. On retiring from the presidency he also retired from

public life, spending his remaining days in his country home in Virginia. He died on June 28, 1836.

See Rives' *Life and Times of Madison*, 3 vols.
Gay's *Life of James Madison.*
Standard histories and cyclopædias.

2. Madison was to the Convention of Virginia what Hamilton was to that of New York. Whether the Constitution should be ratified in Virginia depended more upon Madison than upon any other single man. He had to meet the opposition of men like Henry, Mason, Monroe, and Lee, men of the greatest influence in Virginia. He was powerfully aided by Marshall, and in the contest over nearly every clause of the Constitution the arguments of Madison and Marshall contain the best product of the best political minds of the Virginia convention. Our selection from Madison contains parts of a speech delivered on June 16, 1788. For the full speech and the discussion see Elliot's *Debates*, vol. iii., p. 86 *et seq.*

3. On February 3, 1781, Congress sought to gain the consent of the States to a 5 per cent. *ad valorem* duty on imports, for no other purpose than to discharge the principal and interest of the Continental debt. Rhode Island refused her consent. In December, 1782, a special deputation was commissioned to Rhode Island to gain her consent to this reasonable allowance, which discontent in the army, clamor of public creditors, and the failure of loans had seemed to make absolutely necessary. The most notable attempt under the Confederation at securing a unanimous consent for a uniform revenue from the States, was that of April 18, 1783. On that day it was resolved by nine States, that it be recommended to the several States as indispensably necessary to the restoration of public credit, and to the punctual and honorable discharge of the public debts, to invest the United States, in Congress assembled, with a power to levy for the use of the United States

certain duties upon imported goods. Madison prepared the able address to the States on this occasion. But the effort was in vain, chiefly owing to the persistent refusal of Rhode Island. See Elliot's *Debates*, vol. i., page 96.

4. On June 21, 1783, after the disbanding of the army had begun, a few mutinous and drunken soldiers overawed Congress in Philadelphia. They demanded pay and threatened to seize the members. Congress had to appeal to the State government for protection, but the appeal was fruitless, and the members of Congress fled across the river to Princeton, N. J., where they resumed their sittings. The affair illustrated the disrepute and pitiable weakness of the Federal government. See Fiske's *Critical Period of American History*, p. 112; MacMaster's *History of the United States*, vol. i., pp. 183, 184.

5. A more careful and elaborate presentation of Madison's exposition of the Federal government is found in No. 39 of *The Federalist*, probably the best brief commentary to be found in political science on the character of the American Constitution.

ALBERT GALLATIN.

1. Albert Gallatin was born in Geneva, Switzerland, January 29, 1761. He was graduated from the University of Geneva in 1779. In 1780 he emigrated to the United States, though the usual reasons for emigrating did not hold in his case. He was a young man of competent fortune, good prospects, social position, and of strong family connection. In 1782 he became instructor in French in Harvard University; in 1785 he settled in western Pennsylvania; in 1787 he entered politics as an Anti-Federalist, in opposition to the adoption of the

Constitution. In 1793 he was elected to the United States Senate by votes of both political parties; but the Federalists in the Senate soon unseated him on account of a technical flaw in the duration of his citizenship. Gallatin took part in the Whiskey Insurrection in 1794, but he opposed violence and resistance to the government. He served in Congress from 1795 to 1801, where he was the acknowledged leader of the House Republicans. He was Secretary of the Treasury from 1802 to 1814; helped to negotiate the Treaty of Ghent in 1814; was United States Minister to France from 1816 to 1823; and in 1826–7 was Minister to Great Britain. In 1828 he returned to the United States and retired from public life. He became president of a bank in New York City, and he retained his interest in public affairs until his death. He died at Astoria, Long Island, August 12, 1849.

2. This speech was delivered in the Committee of the Whole, House of Representatives, April 26, 1796.

On April 19, 1794, President Washington appointed John Jay, Chief Justice of the United States, as a special envoy to England to make an effort to adjust commercial disputes with that country. Jay's treaty was negotiated November 19, 1794, but it was not received at Washington until after the adjournment of Congress in March, 1795. Washington submitted the treaty to the Senate in a special session summoned for that purpose and it was ratified by that body after a two weeks' secret debate, on June 24, 1795. The vote stood 20 to 10, exactly the two thirds necessary to the ratification of a treaty. As it was, the ratification was conditional upon the suspension of the article relating to the West India trade. This article provided that trade with the British West Indies should be allowed the United States only on condition that it be carried on in vessels of less than seventy tons burden; and in return for this concession the United States agreed not to

export to any part of the world, "molasses, sugar, coffee, cocoa, or cotton." These were supposed to be products of the English colonies only, and England's purpose was to prevent their being transmitted through the United States, and United States vessels, to foreign nations. England desired this carrying trade for her own vessels. It is evident from this that Jay did not know that cotton was then an article of export from the United States.

Nothwithstanding the defects of the treaty Washington believed it was the best that could be obtained at the time, and he signed it, August 12, 1795.

The fierce opposition with which the treaty was received when its terms were made known to the public, is well known. State Legislatures declared the treaty unconstitutional; Jay was burned in effigy; Hamilton was stoned while advocating the treaty; Washington was called the "step-father of his country"; and the venerable John Rutledge, in a public speech in Charleston, charged Jay with being either a fool or a knave,—a rash utterance which cost Rutledge the confirmation to the Chief Justiceship to which he had been nominated when Jay resigned to become Governor of New York.

This popular opposition was represented in Congress, and a struggle there was inevitable. The struggle began, March 2, 1796, when the President proclaimed the treaty the law of the land and communicated it to the House in order that the necessary appropriations might be made to carry it into effect. An additional article to the treaty, in harmony with our conditional ratification, had been obtained on October 28, 1795, and the treaty with the amended article had come back from Great Britain fully ratified.* On the same day on which the Presi-

* The new clause on the West India trade was more favorable than at first, but we did not secure full commercial privileges with the British West Indies until 1830.

dent's communication was presented to the House Edward Livingston, of New York, offered a resolution calling on the President for Jay's instructions and other papers relating to the treaty. The first of the two great debates in the House on the British treaty occurred on this resolution. This discussion had little to do with the merits and demerits of the treaty, but it dealt with the question whether the House could rightfully participate in giving a treaty its effect. It was on this phase of the controversy that Gallatin made one of his great speeches, —not the one in our text—"the best constitutional speech on the Republican side."* "Gallatin did not claim on the part of the House an absolute right of review in every instance of negotiation, but that whenever the President and Senate include in a treaty matters confided by the Constitution to the Congress of the United States, an act of legislation will be necessary to confirm these articles; this act the House, as a co-ordinate branch, is perfectly competent to pass or reject at discretion, and that thus the absorption of legislative powers by the treaty-making organ would be obviated." † It was understood that the Jay treaty contained provisions known to be in opposition to the will of the House, whose insertion in the treaty had been recommended by Hamilton with the express design of making laws by the more convenient combination of President and Senate instead of President and Congress. ‡ The Republicans held that they had a right to prevent this, and they passed the Livingston resolution on March 24th by a vote of 62 to 37. But Washington refused, in a communication of March 30th, to submit the papers to the House, because, as a matter of precedent, he did not wish to acknowledge that the assent of the House was necessary to the validity and execu-

* Schouler.

† Schouler, *United States History*, vol. i., p. 309.

‡ Schouler, vol. i., p. 308.

tion of a treaty. Washington's answer was referred to the Committee of the Whole, the matter was again debated, and on April 7th the House resolved that it claimed no agency in the making of treaties, but that as a part of Congress it claimed the right of deliberating upon the expediency of carrying into effect a treaty which dealt with the subjects—like the regulation of commerce—given by the Constitution to the control of Congress.

The second debate lasted from April 15th to the 29th. This arose on a Federalist resolution that the necessary laws should be passed to carry the treaty into effect. This discussion went more into the merits of the treaty and is more interesting historically than the first discussion, which involved chiefly the constitutional question of the discretion of the House. Gallatin and Madison again led the Republican opposition, entering into the expediency of the treaty. Gallatin's March speech is an abler contribution to the constitutional aspects of the question than the one we have selected ; of the former Jefferson said that it was worthy of insertion in the *Federalist* as the only rational commentary on the treaty clauses of the American Constitution. The two speeches on this subject which we have selected are the best representative speeches of their respective sides. Gallatin spoke against the treaty on April 26, 1796, and Ames followed in defense of the treaty two days later.

An abbreviated summary of the other terms of the Jay treaty will be of use here :

1. Peace was re-declared. 2. The northern boundary was re-defined, and a commission was to settle disputes on the northeast boundary. 3. Free commerce with the Indians was to be open to both nations. 4. The Mississippi was to be open to both nations. 5. The United States was to compensate Great Britain for confiscated debts as far as State impediments prevented collections. 6. The United States

was to make restitution for captures by Genet privateers. 7. Aliens from either country might hold land in the other. 8. In case of war between the two countries debts should not be confiscated.

All these were unimportant or in the interest of Great Britain. In return we were favored by :

9. England was to evacuate the western posts by 1796. 10. And to indemnify the United States for unlawful captures.

3. This refers to the previous debate in March and the vote of April 7th. (See Historical Note.) The Federalist supporters of the treaty were in the minority.

4. For the rights and principles of postliminy, see Woolsey's *International Law*, pp. 256, 257, and other authorities on international law.

5. Laurens was a statesman of the Revolution, from South Carolina. In 1778 he undertook a mission as Minister to Holland to negotiate a commercial treaty. He was captured by a British frigate and imprisoned for fifteen months in the Tower in London. After his release in 1781 he was appointed by Congress as one of the American commissioners for negotiating the treaty of peace. He proceeded from London, joined Franklin, Adams, and Jay in Paris, and with them signed the preliminaries of the treaty, November 30, 1782.

6. John Adams was Minister to England from 1785 to 1787.

References :
John Austin Stevens' *Life of Gallatin*. "Statesmen Series."
Article on "Gallatin" in *Encyclopædia Britannica*.
Adams' *Life of Gallatin*.
Gallatin's *Works*.

For consideration of Jay's Treaty see :

Lalor's *Cyclopædia of United States History and Political Science.*
Works of Jay.
Pellew's *Life of Jay.*
Whitelock's *Life of Jay.*
Schouler's *History of the United States*, vol. i.
Hildreth's *History of the United States*, vol. iv.
MacMaster's *History of the United States*, vol. ii.
Hart's *Formation of the Union.*
Andrews' *History of the United States*, vol. i.

FISHER AMES.

1. Fisher Ames was born at Dedham, Norfolk County, Massachusetts, April 9, 1758. He commenced the study of Latin when only six years of age, was admitted to Harvard College at twelve, in 1770. Graduating from Harvard in 1774, he devoted a few years to teaching. He pursued a course of law under William Tudor of Boston, and in 1781 he began the practice of law in Dedham. He became a student and writer on political affairs. In 1788 he was elected to the State Convention for ratifying the Constitution, and in 1789 was elected to the first Congress under the Constitution, remaining a member of the national House of Representatives during the eight years of Washington's administration. At the close of this administration he retired to Dedham, where he spent the rest of his life, giving his attention to the writing of political essays. In 1804 he was invited to the presidency of Harvard College, but he declined the invitation on account of failing health. He died on July 4, 1808, in his fiftieth year.

In politics Ames was an ardent Federalist, and a large part

of his literary and political labors were given to the publication of essays relating to the contest between Great Britain and revolutionary France, Ames urging that British success was essential to American liberty and prosperity.

2. Mr. Ames here speaks at considerable length on the constitutional right of the House to exercise its discretion.

3. In the omitted passage Ames treats of the charges that the treaty causes us to violate our obligation to France and that it surrenders our independence. He then maintains that the "hinge of the debate is on the point, not whether the treaty is good or otherwise, but whether it is intolerable and fatally pernicious." He urges that failure to execute the treaty would be a wanton breach of faith, an unprovoked violation of the treaty, producing serious moral results.

4. In the passages omitted here Ames answers in detail certain objections which had been raised to the treaty.

5. He emphasizes the indemnity promised by Great Britain for illegal seizures.

6. In this omitted passage Ames appeals to the fears of war and discusses the probability of war.

7. "No Congress had listened to so fine a speech as that in which Ames on April 28, 1796, supported the motion to appropriate money to carry the hated treaty into effect. Ames' health was broken, his spirits were gone. Yet he could not, as the time for voting drew near, keep silent. When he stood up to speak, the Republicans claimed a majority of six. When he sat down they hastened to adjourn lest the motion should be carried against them. When the vote was taken forty-nine were for the resolution and forty-nine against. The casting-vote of the chairman sent it from the Committee of the Whole to the House. There, on the

30th of April, a resolution declaring it expedient to pass the laws necessary to carry the treaty into effect was agreed to, 51 to 48."—MacMaster's *History of the People of the United States*, vol. ii., pp. 280, 281.

"Ames was the chief spokesman for the New England Federalists before their decadence, and in his day his speeches were highly esteemed. Ames had gloomy forebodings concerning the spread of French, or Jeffersonian, democracy in America; but his intensest feelings were uttered in plain and intentionally repressed language. Ames always believed that 'to be the favorite of an ignorant multitude a man must descend to their level'; and refusing so to do he lost some contemporary popularity, but checked certain dangerous tendencies. For literature, certainly, it was well that many leaders of thought should refuse to cater for an unenlightened popular applause."—Richardson's *American Literature*, vol. i., pp. 209, 210. See also Duykinck's *Cyclopædia of American Literature*.

Dr. Charles Caldwell, in his autobiography, thus speaks of Ames's eloquence: "He was decidedly one of the most splendid rhetoricians of the age. Two of his speeches, in a special manner,—that on Jay's treaty, and that usually called his 'Tomahawk speech' (because it included some resplendent passages on Indian massacres),—were the most brilliant and fascinating specimens of eloquence I have ever heard; yet have I listened to some of the most celebrated speakers in the British Parliament—among others, to Wilberforce and Macintosh, Plunket, Brougham, and Canning; and Dr. Priestley, who was familiar with the oratory of Pitt the father and Pitt the son, and also with that of Burke and Fox, made to myself the acknowledgement that, in his own words, the speech of Ames, on the British treaty, was the most bewitching piece of parliamentary oratory he had ever listened to."

References:
Ames' *Works of Ames.*
Kirkland's *Memoir and Works of Ames.*
Benton's *Debates of Congress.*
Moore's *American Eloquence*, vol. i.

JOHN NICHOLAS.

1. "John Nicholas was born in Westmoreland County, Va., in 1763; was elected representative from Virginia in the Third Congress as a Democrat; was re-elected to the Fourth, Fifth, and Sixth Congresses, serving from December 2, 1793 to March 3, 1801; removed to Geneva, New York, and devoted himself to agricultural pursuits; was a member of the State Senate of New York, 1806–1809; was presiding judge of the Oneida County Court; superintended the education of a large family; and after a long illness, died at Geneva, New York, December 31, 1819."—*The Political Register and Congressional Directory*, compiled by Ben: Perley Poore.

Randall, in his *Life of Jefferson*, says: "No Virginia family contributed more to Mr. Jefferson's personal success than the powerful family of the Nicholases,—powerful in talents, powerful in probity, powerful in their numbers and union."

2. Historical Note: The Alien and Sedition Acts were a series of party measures passed by the Federalists in the summer of 1798. The publication of the X Y Z correspondence, in April of that year, had aroused a furor of opposition against France. The Jefferson Republican journalists and orators had been openly advocating French Republicanism and they had for some time been regarded as the French party in America. Many of their journalists were foreigners,

French, Scotch, and Irish ; and the anti-French feeling which now arose, directed by the party interests of the Federalists, found vent in hostile legislation.

There were three Alien Acts. The *first* extended the time required for naturalization from five to fourteen years. The *second* authorized the President to order out of the country all aliens whom he might judge dangerous to the peace and safety of the United States, or might suspect of any treasonable plot. The *third* provided that whenever any foreign nation was at war with the United States, all resident aliens, natives of the hostile nation, might, upon proclamation of the President, be arrested and removed.

These acts were objected to by the Republicans on constitutional grounds :

1. They interfered with the rights of the States to permit the importation or migration of such persons as the States might think proper, until the year 1808.

2. Aliens were under the jurisdiction and protection of the States wherein they lived. These acts usurped undelegated authority over them.

3. They interfered with the right of trial by jury.

The *Sedition Act* provided a fine not exceeding $2,000 and imprisonment not exceeding two years, for printing or publishing any false, scandalous, and malicious libels against the Government of the United States or either House of Congress, or the President, with intent to defame them, or to bring them into contempt or disrepute, or to excite against them the hate of the good people of the United States, or to stir up sedition, or to excite any unlawful combination for opposing any law of the United States or any lawful act of the President, or to aid or encourage any hostile designs of any foreign nation against the United States.

The constitutional objections of the Republicans to this law were :

1. It restrained freedom of speech and of the press, which were guaranteed by the Constitution.

2. It enlarged the sphere of national law by recognizing the common law jurisdiction of the Federal courts in criminal matters.

This act was aimed at the Republican journalists, and it was put into vigorous execution. Several of these journalists were indicted and convicted for no greater offense than saying, for instance, that Adams "had completed the scene of ignominy which Washington began"; and that his administration was "worthy of derision and contempt." Federalist journals, however, were not interfered with.

The first Alien Act, the one relating to naturalization, was repealed in 1802; the other Alien Acts were framed to expire in two years. No prosecutions ever took place under them. The Sedition Act, also, was to expire in 1801.

Under the Sedition Act one could hardly criticise the policy of Congress, or the administration, without subjecting himself to the risk of prosecution and imprisonment. Livingston said its principle "would have disgraced the age of Gothic barbarity." All these acts were party measures designed for the purpose of using force and persecution against the party opposition. They reacted against the party which enacted them and were the chief cause of Federalist overthrow in 1800. Jefferson, Madison, and Gallatin organized and led the party opposition to these measures, and in 1798 they promulgated, as a kind of a party platform, the Virginia and Kentucky Resolutions, setting forth, as they interpreted them, the true constitutional powers of Congress, and showing how these acts transcended these legitimate powers. Petitions poured in on Congress in favor of the repeal of these acts. But the Federalists were heady and obstinate. A select committee of the House, with Goodrich as chairman, reported February 25, 1799, with reference to these petitions, not in favor of their

repeal but in their defense, urging that liberty was not license and that aliens had no constitutional rights as citizens but remained in the country only by favor. "A party caucus of the House determined to adopt this report without discussion; accordingly Gallatin, Nicholas, and Livingston, who spoke against it, were coughed down, or disturbed by unseemly conversation and laughter; and without adjournment, the Federalists voted to adopt the report by 52 to 48, and thus clearly committed themselver to the new policy." * It was upon this report that Nicholas spoke, February 25, 1799.

See Professor Johnston's article on "Alien and Sedition Laws," in Lalor's *Cyclopædia of United States History and Political Science;* Schouler's, MacMaster's, and Hildreth's *United States History;* Von Holst's *Constitutional History of the United States; Life of Jefferson*, by Morse, by Randall, by Parton; Hart's *Formation of the Union.*

3. This is called the "sweeping clause" of the Constitution, —it *sweeps* in all powers not otherwise included. The Republican doctrine of strict construction, based chiefly on the tenth amendment, was set forth by Madison and Jefferson in the Virginia and Kentucky Resolutions:

"That the general government created by the compact (the Constitution) is not the final judge of the extent of its powers; that would make its discretion, not the Constitution, the measure of its powers. But, as in all cases of compact having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

"That, by the Constitution Congress has power to punish treason, counterfeiting, piracies, felonies on the high seas, offenses against the laws of nations, and no other crimes whatever, and powers not delegated are retained."

* Schouler, vol. i., p. 426.

"No power over freedom of religion, speech, or press is delegated. It is expressly prohibited. The Sedition Act is therefore unauthorized and of no force."

The resolutions held, further, that the broad construction of the "sweeping clause" would destroy all the limits prescribed to the national power. "*These words*," of the sweeping clause, "*subsidiary to the execution of limited powers ought not to be so construed as to give unlimited powers.*" For a full copy of these resolutions see *Elliot's Debates*, vol. iv., pp. 528–540; *Preston's Documents*, pp. 284–287.

4. This was one of the provisions of the law as finally passed, inserted at the instance of Bayard, of Delaware. The Federalists had said that a citizen should dare to utter what is true but dread to utter what is false. But none of them attempted to draw the line between political truth and falsehood, in the criticism of a political opponent. The attempt to do so would inevitably involve matters of opinion.

THOMAS JEFFERSON.

1. Thomas Jefferson was born in Albemarle County, Va., April 13, 1743. He was first elected to the Burgesses in 1768, and in 1773 he became a member of the Committee of Correspondence for Virginia. In 1775 he was a delegate to the Continental Congress, and in 1776 he became the "immortal author of the Declaration of Independence." He resigned his service in Congress in 1776, to take a seat in the Virginia Legislature, where he set forth the "fundamental principles of a government truly republican, in four great public measures: 1. The repeal of the laws of entail. 2. The abolition of primogeniture and equal partition of inheritances. 3. Relief from taxation for the support of established religion.

4. A system of general education. He attempted, also, to carry two other important measures: 1. Introduction of trial by jury into the Virginia Courts of Chancery. 2. The gradual emancipation of slaves. These measures mark a statesmanship of the truest and broadest character.

In 1779 Jefferson became Governor of Virginia, and in 1785 he succeeded Franklin as our Minister to Paris, and was abroad during the formation of our Constitution. He was Secretary of State from 1790 to 1793; Vice-President from 1797 to 1801; President from 1801 to 1809. After his presidency he lived in retirement at Monticello, with unabated interest in public affairs, until his death, July 4, 1826.

Jefferson was the author of the notable Ordinance of 1784, for the Northwest Territory, which was the forerunner of the more famous Ordinance of 1787; and in 1783 he secured the adoption of the system of coinage which is still in use in the United States. Jefferson may be called the founder of modern American democracy. His political principles are to be found in his first inaugural address, in the Declaration of Independence, in the political measures to which we have referred, and in other state papers and policies indicated by his public career. These principles have been briefly comprehended in the maxim of Jeffersonian democracy: "Equal rights for all, special privileges for none."

The material on Jefferson is voluminous. See his *Works; Life* by Randall, by Morse, by Parton, by Tucker, by Smucker; Abbott's *Lives of the Presidents;* Brougham's *Eminent Statesmen; The Statesman's Manual;* the standard histories, reviews and magazine articles.

2. Jefferson was first elected President in 1800. His inaugural ceremonies, the first ever held in Washington, occurred March 4, 1801. He boldly proclaimed his principles of republican simplicity.

"He eschewed all pomp and ceremony designed artificially to distinguish the president from the people. Instead of driving to the Capitol in a coach and six, as had been the practice, he rode there on horseback, without a guard, or even a servant, in his train, dismounted without assistance, and hitched the bridle of his horse to a fence. Instead of opening Congress in the English fashion, with a speech to which a formal reply was expected, he sent his message by a private hand. Court etiquette was practically abolished, and the weekly levee with it. Titles of honor were not recognised as such. 'Excellency,' 'Honorable,' and even 'Mr.' were distasteful to him. 'If it be possible,' he said, 'to be certainly conscious of anything, I am conscious of feeling no difference between writing to the highest and the lowest being on earth.'"—Hon. John Bigelow in *Encyclopædia Britannica*.

"Jefferson's inaugural address remains a model of its kind; conciliatory, elevated in tone, full of hope and confidence in the American experiment; modest, nevertheless, as to personal merit."—Schouler's *United States History*, vol. i., p. 2.

Jefferson was not an orator; he never attempted the graces of delivery, nor to make an impression by public speech. It is thought that it was because of his lack of power in this direction that he instituted the change in the method of communicating with Congress,—changing from a speech in the presence of the two Houses to a written communication. For Jefferson was a facile and forcible writer, and his first inaugural address, in addition to its great historical interest, is an excellent specimen of English writing.

JOHN RANDOLPH.

1. John Randolph, of Roanoke, was born in Chesterfield County, Va., June 2, 1773. He attended school at Williamsburg and Princeton, and for a short time at Columbia College,

New York. In 1799 he was elected to the national House of Representatives, and continued a member of that body, with the exception of two terms, until 1825. In 1801 he became Chairman of the Ways and Means Committee of the House, and carried through the appropriation for the Louisiana purchase ; and he conducted for the House the impeachment of Judge Chase, 1804. In 1825 Randolph was elected to the United States Senate, and was a member of that body until 1827. In 1830 he was for a while Minister to Russia. He was again elected to Congress in 1832, but died at Philadelphia before he took his seat, on May 24, 1833.

Randolph was at first a radical Jeffersonian democrat, and was always an extreme advocate of States' rights. He accepted in full the Virginia and Kentucky Resolutions of 1798, and advocated forcible resistance to national authority, if need be. He was probably the most eccentric public man who had ever sat in our legislative halls. He had a grandiloquent style of oratory, was possessed of a caustic wit and great powers of sarcasm. He was the victim of bitter and ungovernable temper. He quarrelled with Jefferson and his party in 1806, and became the leader of a faction of the Republicans known as the "Quids," who opposed Jefferson's administration. He quarrelled successively with Madison, Monroe, and Clay, engaging in a famous duel with Clay in 1826.

2. On November 29, 1811, Mr. Porter, of New York, submitted a report to the House from the Committee on Foreign Affairs. This report is a valuable historical document, reviewing the commercial aggressions of France, and more especially those of England, that led up to the War of 1812. The report breathed a warlike spirit, holding that the country "had borne with injury until forbearance had ceased to be a virtue ; and that the period has arrived, when, in the opinion of your Committee, it is the sacred duty of Congress to call forth the

patriotism and resources of the country. By the aid of these, and with the blessing of God, we confidently trust we shall be able to procure that redress which has been sought for by justice, by remonstrance, and forbearance, in vain." The report then closed with a series of resolutions. These called for a larger military establishment; for an additional force of ten thousand troops; for authorizing the President to accept the service of volunteers, and to call out detachments of the militia; and for arming merchant vessels in self-defense.

This meant preparation for war. On December 6th and 9th Mr. Porter and Mr. Grundy, of Tennessee, spoke for these resolutions. On the 10th Mr. Randolph spoke in opposition.

The British views and the partiality for England set forth in this speech were first publicly indicated by Randolph in his speech on the Gregg Resolution, March 5, 1806, when he entered upon his career of opposition to the Republican administration. The Gregg Resolution looked toward commercial retaliation against Great Britain. From this time on it seems that Randolph stood ready to oppose what the administration party, led by Jefferson, Madison, and Gallatin, favored.

It is not improbable that the tone and substance of Randolph's speeches were considerably determined by the element of personal animosity and jealousy. Other speeches of Randolph, in addition to those already referred to, are the speech on the Yazoo Resolutions, in 1803; on the U. S. Bank, in 1816; on Internal Improvements and the Tariff, in 1824; and on the President's message, in 1826. The last was the speech which led to the duel with Clay, and may be called the "Blifil and Black George Speech," in which Randolph brought forward the charge of a political combination between John Quincy Adams and Clay in the election of 1824, which he called the "coalition of Blifil and Black George,

the combination, unheard of until now, of the Puritan and the blackleg."

3. Randolph here enters upon a comparison of the vigorous war spirit manifested by the Republicans of the House in 1811 with the submissive conduct of the House in 1805–6 under greater provocation from Spain. Spain had closed the mouth of the Mississippi in 1803, and had invaded our southwestern territory, according to the claims of the anti-Spanish party.

4. In closing his speech Grundy had said : " I am willing to receive the Canadian as adopted brethren ; it will have beneficial political effects ; it will preserve the equilibrium of the government. When Louisiana shall be fully peopled, the Northern States will lose their power ; they will be at the discretion of others ; they can be depressed at pleasure, and then this Union might be endangered. I, therefore, feel anxious, not only to add the Floridas to the South, but the Canadas to the North of this Empire."—*Annals of Congress*, 12th Congress, part i., p. 426.

5. Randolph here charges the war party with an intention of going to war merely for the sake of our direct export and import trade, while being willing to surrender our maritime rights as neutrals in other carrying trade. If we were to stand for our rights we should stand for them in full.

6. The Non-Intercourse Act, passed March 1, 1809, to be substituted for the Embargo. It was to continue until the next session of Congress, but was revised by the acts of June 28, 1809, May 1, 1810, and March 2, 1811. It forbade the entrance to American ports of public or private British or French vessels, all commercial intercourse with France or Great Britain, and the importation, after May 20, 1809, of goods grown or manufactured in France or Great Britain or their colonies.—Jameson's *Dictionary of U. S. History*.

7. " Peter Porcupine," a pseudonym for William Cobbett, a British journalist, who wrote in aid of the Federalists under Washington and Adams.

8. By 1810 the South was first beginning to notice the more rapid increase of population in the North. This was emphasized by the regular decennial apportionment bill based on the census of that year.

9. He emphasizes the dangers to be apprehended from the doctrine of equality which had made its way among the slaves through Yankee peddlers and other means.

10. Randolph now proceeds to notice the charge that there were certain men in the House and in the country who were unduly attached to Great Britain.

11. Randolph here refers to partialities we had shown to France, and to French violations of our hospitality and of our neutrality laws. Privateers had been fitted out for France in Savannah and other American ports, and France had confiscated much of our merchandise on the seas. Randolph held that instant war would have been the cry if England had done these things. Yet he seemed willing to ignore England's greater aggressions.

12. Randolph pleads for better defense at home before attempting an aggressive attack on Canada.

JOSIAH QUINCY.

1. Josiah Quincy was born in Boston, Feb. 4, 1772; was graduated from Harvard in 1790; studied law with William Tudor, and was admitted to the bar in 1793. He devoted considerable leisure time to the study of history and politics.

In 1804 he was elected to the State Senate, and in the fall of the same year to Congress, where he remained till 1813. Quincy was an extreme Federalist, and was a member of the "Essex Junto." His career in Congress was distinguished chiefly for his opposition to the Embargo, to the War of 1812, and to the admission of Louisiana. He was the recognized leader in the House of the Federalist minority. During the ten years following 1813 he was several years a member of the Massachusetts Legislature; in 1820 he was a member of the State Convention called to revise the Constitution. From 1823 to 1828 he was Mayor of Boston. From 1829 to 1845 he was President of Harvard College. From 1845 to his death, July 1, 1864, he lived a retired life, devoted to literary and social pursuits.

2. The Enabling Act, authorizing the people of the Territory of Orleans to form a Constitution and State Government, was first presented in the House of Representatives December 27, 1810. The bill passed the House on January 15, 1811. It was amended in the Senate by the insertion of the word "white" in the declaration "that the Convention should be chosen by the free male inhabitants," so as to exclude free colored people of mixed blood from voting. The House at first objected to the amendment, but finally receded, February 13, 1811. The State of Louisiana, formed from this Territory, adopted a Constitution and was admitted to the Union, April 8, 1812. It was during the debates on the Enabling Act that Quincy made this famous speech, January 14, 1811.

There was a medley of races in the proposed new State, of French, Spanish, Creoles, Negroes, Mulattoes, and Whites. Its admission was much more like admitting a "foreign State" than anything attempted before, especially since its territory was not a part of the original territory of the Union.

The New England Federalists, of whom Quincy was chief spokesman, were jealous of the extension of political power to the South and West. Gouverneur Morris, in the Constitutional Convention, had expressed alarm at the thought of the sceptre of political power passing from the East to the unsettled States of the West, if the latter were allowed equal representation with the old States. It was for this reason that many Northern and Eastern statesmen opposed the extension of slavery,—not merely because they looked upon slavery as a great evil and a dangerous institution, but primarily because the system of slave representation in Congress gave to the proposed new States in the Southwest an undue influence in national legislation. Mr. Quincy, while a member of the Massachusetts Legislature, had urged that State to propose an amendment to the Constitution rescinding the three-fifths compromise clause. Such an amendment would probably have resulted in a dissolution of the Union. Quincy does not emphasize his opposition to slavery in this speech; and we conclude that his opposition to the admission of Louisiana resulted from unwillingness to share the benefits of the Constitution with the "wild men of the West," and from his eagerness to retain for the Eastern States the relative power which they then possessed. Schouler says: "Quincy, still young in service, survived all his political contemporaries. He lived long enough to recant these narrow views and to see and believe in the uprising of a great people, stretched from ocean to ocean, with one thought and one will to protect, to preserve, and to render the Union of these States immortal." —*United States History*, vol ii., p. 315.

See: *Annals of Congress*, 11th Congress, 3d Session.
Quincy's *Life of Josiah Quincy*.
Everett's *Oration on Josiah Quincy*.
The cyclopædias and standard histories.

3. "This declaration," says Hildreth, "was the first

announcement on the floor of Congress of the doctrine of Secession." *

At this point in his speech, Mr. Quincy was called to order by Mr. Poindexter, delegate from the Mississippi Territory for the words in italics. Mr. Quincy repeated and justified his remark, which, to save all misapprehension, he committed to writing. Some confusion followed, and Mr. Poindexter required the decision of the Chair, whether it was consistent with propriety of debate, to use such an expression. The Speaker, Mr. Varnum, decided that the latter part of Quincy's remark was contrary to the order of debate. Quincy appealed from the decision and was sustained by the House, in a vote of 56 to 53. Quincy then proceeded with his speech. For speeches in opposition to Quincy's see the *Annals of Congress*, 1810–11, 3d Sess., 11th Cong., especially the speeches of Poindexter of Mississippi, Rhea of Tennessee, and Wright of Maryland.

4. It will be seen that the South Carolina nullifiers were not without precedent for their compact theory of the Constitution. See also Hayne's speech, p. 244.

5. This theory as to Massachusetts' relation to the Union and of the citizen's guarantee to life, liberty, and property was, no doubt, generally accepted at the time, and it has never been seriously questioned since. But if Mr. Quincy intended to lay down the doctrine that the State of Massachusetts as such, had, as a partner in a business compact, a right of control with the other States in the disposition of the territories, his theory was not essentially different from that of Calhoun, which sets forth the extreme States' rights view. See Calhoun's speech on the Oregon Bill, 1848.

6. It may be interesting to speculate on what the framers of the Constitution would have thought of such propositions;

* Hildreth's *United States History*, vol. ii., p. 315.

and more interesting still to reflect what they, and the New England Federalists of Quincy's day, would have thought of propositions to extend the Union to its present limits.

7. Mr. Quincy here discusses the right of the treaty-making power to provide for admission. By our treaty with France in 1803, by which we purchased Louisiana, it was agreed "that the inhabitants of the ceded territory shall be incorporated into the Union of the United States and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and in the meantime they shall be maintained in the free enjoyment of their liberty, property, and the religion they profess." Quincy held that the treaty-making power could not alienate an essential right; and that it was an essential right of the States to continue in the possession of that proportion of political power which the Constitution has secured to every State, modified only by internal increase.—See Speech, *Annals of Congress*, 3d Sess., 11th Congr., p. 538.

8. Quincy here expresses surprise and alarm that the Mississippi should have been referred to as a highway: "Good heavens! between what, Mr. Speaker? Why, the Eastern and Western States. So that all the Northwestern Territories, all the countries once the extreme western boundary of our Union, are hereafter to be denominated Eastern States." —*Annals of Congress.*

HENRY CLAY.

1. Henry Clay was born in Hanover County, near Richmond, Va., April 12, 1777. His early life was one of hardship, and on account of the toil of his boyhood he was after-

wards known as the "mill boy of the slashes." He removed to Kentucky in 1792, settling at Lexington. He was soon admitted to the bar, and he speedily gained a reputation on account of his power before a jury. He was a member of the Kentucky Legislature in 1803; a U. S. Senator from Kentucky in 1806–7. He became a member of the national House of Representatives in 1811, and from that time until his death, June 29, 1852, he was almost continuously in public life. He bore such a prominent part in the public councils that a sketch of his life would be but the history of this period. Clay was four times Speaker of the House, between 1811–1825; was Secretary of State from 1825 to 1829; was Senator again from 1836 to 1842, and from 1849 until his death. He took a prominent part in the negotiations at Ghent in 1814, and was four times a candidate for the presidency. His name is most prominently associated with the great political compromises of this period,—the Missouri Compromise of 1820; the Tariff Compromise, 1833; the Slavery Compromise, 1850. He was throughout his life the recognized leader of the Whig party, and was the promulgator of the "American System" described in the great Whig measures, the Bank, the Tariff, and Internal Improvements.

As a political orator in the forum Clay stood unrivalled in his day. His speeches have by no means the permanent value of Webster's; and they were not logical and profound. But his oratory had the magnetic quality which enabled him to enrapture audiences and win applause. Mr. Blaine, in his *Twenty Years of Congress*, says: "Mr. Clay was inevitably a leader. In all the discussions of the Senate in which constitutional questions were involved Mr. Clay instinctively deferred to Mr. Webster. In the parliamentary debates which concerned the position of parties and the fate of measures, which enchained the Senate and led captive the people, Mr. Clay was *facile princeps*. Mr. Webster argued the prin-

ciple, Mr. Clay embodied it in a statute. Mr. Webster's speeches are still read with interest and studied with profit. Mr. Clay's speeches swayed listening senates and moved multitudes, but reading them is a disappointment. Between the two the difference is much the same as that between Burke and Charles James Fox. Fox was the parliamentary debater of England, the consummate leader of his party. His speeches, always listened to and cheered by a crowded House of Commons, perished with their delivery. Burke could never command a body of followers, but his parliamentary orations form brilliant and permanent chapters in the political literature of two continents."—Vol. i., p. 107.

See also Schurz' *Life of Clay;* Colton's *Life and Speeches of Clay;* Moore's *American Eloquence;* Mathews' *Orators and Oratory;* Clay's *Works.*

2. This speech of Clay was delivered in committee of the whole House, on a bill proposing that twenty thousand men should be added to the existing military establishment. Clay was at this time Speaker of the House. When he came to Congress in 1811 he became immediately the recognized leader of the war party in the House, and as Speaker he organized the committees to promote the war policy. It was Clay's leadership which hastened the war. Madison was timid and desired to avoid war as long as possible; he was urged and forced into the war by the more radical young Republicans from the West and South, like Clay and Calhoun.

Both these young statesmen replied to Randolph and the opponents of the war, in 1811. Clay spoke again, in favor of an increase in the navy, on January 22, 1812. War was declared June 18, 1812. During the summer and fall of that year we met with a series of military reverses. When Congress met again in November and had heard the President's message reviewing the events of the year, bills to increase the army and navy gave occasion for a general discussion on the

merits of the war. The speech of Clay on the army bill, January 8 and 9, 1813, was especially in reply to Quincy, who had made a strong speech in opposition to the war. Mr. Schurz calls this speech one of Clay's greatest performances, and he especially commends the passage in eulogy of Jefferson. It is said that while speaking of our obligation to "our gallant tars" Clay put forth his whole melo-dramatic power and drew tears from the eyes of his listeners.

3. This refers to the "Essex Junto." See Jameson's *Dictionary of Am. Hist.* or Lalor's *Cyc. of United States Hist. and Polit. Sci.*

4. Clay here makes a comparison between the administration and the opposition.

5. See p. 182.

"John Henry had been sent by the Governor of British North America in January, 1809, to report upon the state of affairs and political feeling in New England. He remained until June and, in order to magnify his office, painted the New England disaffection to the Union in very high colors throughout his reports. Disappointed of the reward he had expected, he returned to the United States in 1812, and sold the letters and documents to President Madison for $50,000. They, however, revealed no design at secession in New England."—Prof. Johnston, in Lalor's *Cyclopædia of United States History and Political Science.*

6. McKee's motion was made to embarrass the administration. Clay candidly admitted all the opposition claimed as to the injustice of France and our grievances against that nation, and he wished that we were in a position to resent these wrongs. He then discussed at some length England's orders in council and her practice of impressment.

For full copies of the speech, see *Annals of Congress;* Colton's and Mallory's *Life and Speeches of Clay;* Moore's *Eloquence.*

ROBERT Y. HAYNE.

1. Robert Young Hayne was born in Colleton District, South Carolina, November 10, 1791. He served for a short time as a soldier in the War of 1812; was elected to the State Legislature in 1814, and became Speaker of the South Carolina Assembly, in 1816. He accepted the office of Attorney-General of South Carolina while refusing the Attorney-Generalship of the United States. In 1822 he was elected to the U. S. Senate, retaining the Senatorship until he resigned, in 1832, to become Governor of his native State during the nullification troubles. He retired from the governorship in 1834, and continued in private life until his death, September 24, 1840.

Hayne was an able lawyer and a speaker of very pleasing address. Benton regarded him as a man of great natural gifts, "a ready and copious orator, of brilliant mind, quick to discern, and disposed to view things on the practical side." He became the champion on the floor of the Senate of the South Carolina doctrine of nullification. Calhoun was Vice-President and was, therefore, barred from the privileges of the floor. Benton intimates that Hayne was Calhoun's sword and buckler, and that he returned to the Senate every morning refreshed by nightly communion with the Vice-President, drawing supplies from the well-stored arsenal of Calhoun's more powerful and more subtle mind.

2. The debate between Webster and Hayne, January 20–30, 1830, is the most famous in American political annals, and, consequently, the literature of the subject is abundant. A knowledge of the merits of the discussion is essential to an intelligent conception of American constitutional and political development.

The debate arose on an amended resolution of Senator Foot, of Connecticut, requesting the Committee on Public Lands to inquire into the expediency of limiting the sales of the public

lands. This was taken as an intimation that the Eastern States were opposed to the policy of selling the public lands to settlers at easy rates, a policy which was creating and building up the agricultural communities in the West. Benton, a leader of the Western view, was anxious to have the Western settlers secure the lands on the easiest possible terms, and he was ready to effect a combination of the West and South for this purpose. The South was restive under the recent protective act of 1828, which she conceived to be in the interest of New England and to the detriment of the rest of the country. This legislation was looked upon, also, as an indication of a dangerous centralizing tendency as well as of a sectional purpose to dominate the revenue policy of the country. Consequently the South was ready to join the West, and Hayne was ready to co-operate with Benton in favoring the western policy. Benton charged upon New England jealousy of the West and a desire to retard its growth ; and he urged that the Government should continue to dispose of the public lands, and after paying the national debt with the proceeds, should still continue offering the remainder of the lands, not holding any for the sake of a permanent public revenue, but looking rather towards the erection of new Western States.

Benton's charges, seconded by Hayne, led to a wide range of debate. The leading subject of discussion, and that which gives the debate historic interest, was the question of nullification. Hayne had been an ardent opponent of the Tariff Act of 1824 and of the subsequent Act of 1828. In his resistance to the protective policy he now fell back on a construction of the Constitution which denationalized the central government. The debate is notable from the fact that it set forth the first clear statement of the constitutional principles upon which the North and South afterwards came into armed conflict. This debate for the first time clearly defined for the American people the great issue as to the character of their Constitution,—

whether it was an instrument of a national government, or merely articles of confederation for a league of states. Was the Union a *Bundes staat* or *Staaten bund?*

A study of the speeches will best lead to an understanding of the opposing views of the fundamental character of the Constitution. See, also, the Historical Note on Webster's Reply, p. 386.

3. The coalition referred to is the pretended bargain between the forces of Adams and Clay in the presidential election of 1824. See Randolph's reference to it. Note p. 370. Hayne also charged a coalition in 1824–5, between the East and the West, represented by the leaders, Adams and Clay, to exchange support for protection and internal improvements.—See Hart's *Formation of the Union*, p. 250; Lossing's *Cyclopædia of American History;* Lalor's *Cyclopædia of Political Science;* Johnston's *American Politics*.

4. In the omitted parts Hayne discusses the land sales, internal improvements, debt payment, Webster's attitude toward the South and his contrast between the slave and the free states. On all these subjects Southern constitutional scruples are indicated, and each topic is shown to have an incidental bearing upon the issue between a "consolidated" and a "federal" Union. The full speech of Hayne can be found in Moore's *American Eloquence*, vol. ii., p. 557.

5. Eustis, a party follower of Jefferson, Madison, and Monroe, was the first Democratic-Republican Governor of Massachusetts. He was elected over Harrison Gray Otis in 1823. His election marks an era,—the final disappearance of the Federalist Party. Soon after his election the Democratic Legislature of Massachusetts disavowed "the unwarrantable course pursued by this State during the late war."

6. Riego, a Spanish general and patriot. He served against

Napoleon; was leader of the revolution in Southern Spain in 1820; was taken prisoner in the French invasion of 1823, and was put to death as a traitor.—*Century Cyclopædia of Names.*

7. Mr. Hayne next speaks of the Tariff and of Webster's record on that subject; of the comparative devotion to the Union of the two sections; eulogizing South Carolina; of the War of 1812 and of the disloyal course of the Federalists during that war.

8. John Randolph.

9. Hayne here discusses the Virginian Resolutions of 1798, and eulogizes Madison as a constitutional authority.

10. He further uses Jefferson as authority, setting forth Jefferson's protest to the Legislature of Virginia, in December, 1825, in respect to Federal powers in relation to the tariff and internal improvements.

11. See Adams' *History of the United States*, vol. iv., chs. 17 and 18, for Federal Factions in New England, in this period; especially pp. 411–413, for the occasion referred to.

12. From Burke's "Speech on American Taxation."

13. From the standpoint of his premises, Hayne was virtually correct in his conclusions. He saw the end to which the national view would lead. The supreme will of the American people is to-day exercised through the national government, not through the State governments, and this supreme will, or sovereignty, is without limitation. This fact comes, as Hayne asserted it would come, from the acceptance of the theory that "the Federal government, in all, or any, of its departments, should prescribe the limits of its own authority, and the States are bound to submit to the decision." True, the supreme will of the people has determined that, while national unity shall be preserved, large powers shall also be reserved to the

States. Constitutionally our national government is still, as it has always been, a government of limited powers; but the acceptance of the national theory was the acceptance of the national government as the agency through which the sovereign will is to be expressed and changes without limitation to be wrought out, if desired. The cause at stake in this debate marks a great turning-point in the history of the Republic. Would Hayne's theory have led to development, or to retrogression?

A quotation from Mr. Bryce is *apropos:* "The problems which all federalized nations have had to solve is how to secure an efficient central government and preserve national unity, while allowing scope for the diversities, and free play to the authorities, of the members of the Federation. It is, to adopt that favorite astronomical metaphor which no American panegyrist of the Constitution omits, to keep the centrifugal and centripetal forces in equilibrium, so that neither the planet States shall fly off into space, nor the sun of the central government draw them into its consuming fires. The characteristic merit of the American Constitution lies in the method by which it has solved this problem. It has given the National Government a direct authority over all citizens, irrespective of the State governments, and has therefore been able safely to leave wide powers to those governments. And by placing the Constitution above both the National and State governments, it has referred the arbitraments of disputes between them to an independent body, charged with the interpretation of the Constitution,—a body which is to be deemed, not so much a third authority in the government, as the living voice of the Constitution, the unfolder of the mind of the people whose will stands expressed in that supreme instrument."—*American Commonwealth*, vol. i., p. 356.

"Hayne dashed into debate like the Mameluke cavalry upon a charge. There was a gallant air about him that could

not but win admiration. He never provided for retreat; he never imagined it. He had an invincible confidence in himself which arose, partly from constitutional temperament, partly from previous success. His was the Napoleonic warfare; to strike at once for the capitol of the enemy, heedless of danger or cost to his own forces. Not doubting to overcome all odds, he feared none, however seemingly superior. Of great fluency and no little force of expression, his speech never halted and seldom fatigued.

"His oratory was graceful and persuasive. An impassioned manner, somewhat vehement at times, but rarely, if ever, extravagant; a voice well modulated and clear; a distinct, though rapid enunciation; a confident, but not often offensive address; these accompanying and illustrating language well selected, and periods well turned, made him a popular and effective speaker. Colonel Hayne was incontestably the most formidable of Mr. Webster's opponents."—March's *Reminiscences of Congress*, pp. 100–101.

DANIEL WEBSTER.

1. Daniel Webster was born at Salisbury, N. H., January 18, 1782. He was of Scotch ancestry. He depended for his early education chiefly upon his mother. Of his early experience in the few winter schools which he attended he said: "There was one thing I could not do: I could not make a declamation; I could not speak before the school." He was sickly in youth, too delicate for farm work, and much of his time was spent in fishing, hunting, and reading. By abstinence and frugality, his family were able to send him to college. He graduated at Dartmouth in 1801, studied law and was admitted to the bar in Boston in 1805. On account of

his father's desire he returned to Boscawen, N. H. In 1813 he entered Congress from New Hampshire, as a Federalist, retiring from congressional life in 1817, when he returned to Boston. He gained his national reputation by his famous argument before the Supreme Court, in the "Dartmouth College Case." From this time until his death, October 24, 1852, his life is public history. From 1823 to 1827 Webster was a member of the House of Representatives; from 1827 to 1841 he was a member of the U. S. Senate; from 1841 to 1843 he was Secretary of State under Harrison and Tyler; from 1845 until 1850, again a member of the Senate; from July 9, 1850, until his death, October 24, 1852, he was President Fillmore's Secretary of State.

2. It was on December 29, 1829, that Foot offered his resolution on the public lands. Noble, Woodbury, Holmes, Foot, and Benton, spoke briefly, in light skirmish, on the subject. On January 18, 1830, Benton delivered a labored speech attacking New England: "The West must still look to the solid phalanx of the South for succor," said Benton. On January 19th, Hayne followed Benton, joining in the attack and charging the East with opposing the interest of the West. The absurdity of the charge is seen in the fact that New England was also charged from the South with forming an unworthy coalition with the West to carry internal improvements and the tariff. But now New England was opposing easy settlements in the West in order to keep her own cheap labor at home in her protected factories. On the 20th January, Webster effectually replied to Hayne. "This first speech on Foot's resolution has been so obscured by the greatness of the second that it is seldom referred to and but little read. Yet it is one of the most effective retorts, one of the strongest pieces of destructive criticism, ever uttered in the Senate, although its purpose was simply to repel the

charge of hostility to the West on the part of New England." *

On January 21st, Webster requested that the discussion be postponed a week, on account of his engagement with an important case before the Supreme Court. Hayne objected to postponement. Putting his hand on his heart, Hayne said: "He had something there he wished to get rid of. The gentleman had discharged his fire in the face of the Senate, and he demanded an opportunity of returning the shot." "Then it was," says a Southern member of Congress, "that Mr. Webster's person seemed to become taller and bigger. His chest expanded and his eye-balls dilated. Folding his arms in a composed, firm, and most expressive manner, he exclaimed, 'Let the discussion proceed. I am ready. I am ready *now* to receive the gentleman's fire.'" † Hayne then delivered a part of the speech which we have used in this volume. "The friends of Colonel Hayne," says March, "were much elated at what they considered his brilliant debut, and confidently predicted his ultimate triumph. Mr. Webster's friends doubted and hoped." On Monday, January 25th, Hayne continued his speech. Upon its conclusion, after Webster had secured the floor for his reply, the Senate adjourned. Hayne's speech was the universal topic of conversation that afternoon and evening, and his party friends were buoyant and confident. Edward Everett relates a conversation which he had with Webster that evening before his great reply: "Mr. Webster conversed with me freely and at great length upon the subject of the reply, which he felt it necessary to make to Colonel Hayne's speech. He regarded that speech as an entirely unprovoked attack upon the Eastern States, which it was scarcely possible for him, as a New

* Lodge, *Life of Webster*, p. 173.

† March's *Reminiscences of Congress.*

England Senator, to leave unnoticed. He thought Colonel Hayne's speech, however, much more important in another point of view; that is, as an exposition of a system of politics, which, in Mr. Webster's opinion, went far to change the form of government from that which was established by the Constitution, into that (if it could be called a government) which existed under the Confederation. He expressed his intention of putting that theory to rest forever, as far as could be done by an argument in the Senate Chamber." March also relates that on the morning of this speech Webster consulted Senator Bell, of New Hampshire, as to whether he should speak out fully his Constitutional opinion. Senator Bell, who was a confidential advisor of Webster, said: "It is a critical moment; and it is time, it is high time that the people of this country should know what this Constitution is." "Then," replied Mr. Webster, "by the blessing of heaven they shall learn this day, before the sun goes down, what I understand it to be." March says: "Tuesday, January 26, 1830, is a day to be hereafter forever memorable in Senatorial annals. There never was before, in the city, an occasion of so much excitement. To witness this great intellectual contest, multitudes of strangers had for two or three days previous been rushing into the city, and the hotels overflowed. As early as nine o'clock of this morning, crowds poured into the Capitol in hot haste; at twelve o'clock, the hour of meeting, the Senate Chamber,—its galleries, floors, and even lobbies,—was filled to its utmost capacity. The very stairways were dark with men who hung on to one another, like bees in a swarm. The House of Representatives was early deserted. An adjournment would have hardly made it emptier. Members all rushed to hear Mr. Webster, and no call of the House, or other parliamentary proceedings could compel them back. . . . The anxiety to hear the speech was so intense, irrepressible, and universal, that no sooner had the vice-president

assumed the chair, than a motion was made and unanimously carried, to postpone the ordinary preliminaries of Senatorial action, and to take up immediately the consideration of the resolution."—*Reminiscences of Congress*, pp. 132–135.

The most famous speeches of Webster, after the Reply to Hayne, are the following :

1. The Dartmouth College Case, March 10, 1818.
2. First Settlement of New England, December 22, 1820.
3. The Bunker Hill Monument, June 17, 1825.
4. The Murder of Captain White, April 6, 1830.
5. The Constitution not a Compact: Reply to Calhoun, February 16, 1833.
6. The Appointing and Removing Power, February 16, 1835.
7. Exclusion of Slavery from the Territories, August 12, 1848.
8. The Constitution and the Union: "The 7th of March Speech," March 7, 1850.

See E. P. Whipple's *Great Speeches of Webster*, and Everett's edition of *Webster's Works*.

3. In the Supreme Court.—See Historical Note, p. 387.

4. It has been said that Webster made no preparation for this speech, that he spoke as one inspired. He himself says: "The preparation for my reply to Hayne was already made upon the occasion of Mr. Foot's resolution to sell the public lands. Some years before that, Mr. McKinley, a Senator from Alabama, introduced a resolution into the Senate, proposing to cede the public domains to the States in which they were situated. It struck me at that time as being so unfair and improper, that I immediately prepared an argument to resist it. My argument embraced the whole history of the public lands and the Government's action in regard to them. . . . If Hayne had tried to make a speech to fit my notes,

he could not have hit it better. No man is inspired with the occasion ; I never was."—Harvey's *Reminiscences of Webster*, pp. 151, 152.

In this connection a conversation, related by Harvey, between Everett and Webster the evening before Webster's reply, is interesting: "Did you take notes, Mr. Webster, of Mr. Hayne's speech?" Mr. Webster took from his vest-pocket a piece of paper about as big as the palm of his hand, and replied: "I have it all; that is his speech." Harvey, p. 151. Everett and other friends of Webster were afraid that he was not quite aware of the magnitude of the contest.

5. Webster did not hear Benton's speech.

6. Webster here speaks on the "Coalition," the Ordinance of 1787, Slavery, Southern feeling against the North, the Hartford Convention He defends his record on the Western lands and internal improvements, and shows how New England had aided the West.

7. The Constitutional Convention of 1787, in transmitting to Congress the Constitution, accompanied it with a letter from which Webster quoted: "We kept steadily in view the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence.—See Elliot's *Debates*.

8. Webster here speaks upon the Tariff. One of the sharpest parts of Hayne's speech had been his arraignment of Webster for his inconsistency upon the tariff.

9. This is one of Mr. Webster's most splendid periods. The Massachusetts men, who had doubted Webster's ability to contend with Hayne, were reassured. "As he alluded to Massachusetts their feelings were strained; and when, concluding his enconium upon the land of their birth, he turned, intentionally or otherwise, and his burning eye fell on them, they shed tears like girls."—March's *Reminiscences*.

10. Language of a toast proposed at a dinner in New York in honor of Jefferson's birthday. (Hodgin.)

11. Did Hayne say this? Did Webster deny the right of the people to resist unconstitutional laws? On what point did the debate hinge?

12. Compare with Lincoln's notable utterance at Gettysburg.

13. See Historical Note on Calhoun's speech on Nullification, p. 393.

14. In this omission Webster says: "At no time, and under no circumstances, has New England, or any State in New England, or any respectable body of persons in New England, or any public man of standing in New England, put forth such a doctrine as this Carolina doctrine." Is this true?—See *Quincy on Louisiana*, p. 182; Loring's *Nullification and Secession*, p. 124; Adams' *United States History*, vol. v., p. 326.

15. See Note 13 on Hayne's speech, p. 383.

16. Turenne and Vauban, military officers of Louis XIV. of France.

17. John Fries was a leader of the opposition, in Eastern Pennsylvania, in 1799, to the direct government tax on houses and lands. This tax was laid by Congress in July, 1798. These riots were known as "Fries' Rebellion." Fries was arrested, convicted of treason, and sentenced to be hung, but was afterwards pardoned.—See MacMaster's *History of the United States*, vol. ii., pp. 434–440; Schouler's *United States History*, vol. i., p. 447.

18. "This great speech marks the highest point attained by Mr. Webster as a public man. He never surpassed it, he never equalled it afterwards. It was his zenith intellectually,

politically, and as an orator. His fame grew and extended in the years which followed ; he won ample distinctions in other fields, he made many other splendid speeches, but he never went beyond the reply which he made to the Senator from South Carolina on January 26, 1830. . . . The weak places in his armor were historical in their nature. It was probably necessary, at all events Mr. Webster felt it to be so, to argue that the Constitution at the outset was not a compact between the States, but a national instrument, and to distinguish the cases of Virginia and Kentucky in 1799, and of New England in 1814, from that of South Carolina in 1830. The former point he touches upon lightly, the latter he discussed ably, eloquently, ingeniously, and at length. Unfortunately, the facts were against him in both instances. When the Constitution was adopted by the votes of States at Philadelphia, and accepted by the votes of States in popular conventions, it is safe to say that there was not a man in the country, from Washington and Hamilton on the one side, to George Clinton and George Mason on the other, who regarded the system as anything but an experiment entered upon by the States, and from which each and every State had the right peaceably to withdraw, a right which was very likely to be exercised."—Henry Cabot Lodge, *Life of Webster*, pp. 174–176.

References for the further study of Webster and the debate : G. T. Curtis' *Life of Webster ;* Lodge's *Life of Webster ;* Tufft's *Life of Webster ;* Everett's *Memoir* in vol. i., edition of *Webster's Works ;* Whipple's *Great Speeches of Webster ;* March's *Reminiscences of Congress ;* Gales and Seaton's *Register of the Debates of Congress ;* Wilson's *Division and Reunion ;* Schouler's *United States History ;* Harvey's *Reminiscences of Webster ;* Appleton's *Cyclopædia of American Biography ;* Gale's and Seaton's *Register ;* George's *Select Speeches of Webster ;* Woodburn and Hodgin's *Select Speeches of Burke and Webster ;* Bradley, *Orations and Arguments.*

JOHN C. CALHOUN.

1. John Caldwell Calhoun was born in Abbeville District, S. C., March 18, 1782. He was of Scotch-Irish extraction. He was graduated at Yale College in 1804, studied law, was admitted to the bar in 1807, commencing practice at Abbeville. He was elected to the State Legislature in 1808, and to Congress in 1811, where he remained until 1817. He was one of the ardent young leaders of the war party under Madison's administration. From this time until his death, his life, like that of Clay and of Webster, is but the public history of his country. He was Secretary of War under Monroe from 1817 to 1825; Vice-President from 1825 to 1832; U. S. Senator from 1832 to 1843; Secretary of State under Tyler, 1844–5; in 1845 he was re-elected to the Senate, of which body he remained a member until his death, March 31, 1850.

Calhoun will be chiefly remembered in American history as the author and defender of the doctrine of nullification, for his instrumentality in the annexation of Texas, and as the ablest and most pronounced defender of the institution of human slavery. His *Disquisition on Government and Discourse on the Constitution and Government of the United States*, is his ablest work, and it distinguishes him as one of the greatest political thinkers and philosophers of his age. He is reported to have said, in the later days of his life, "If you should ask me the word that I would wish engraven on my tombstone, it is '*Nullification*.'"

2. A brief chronological recapitulation of the chief events relating to the subject and occasion of this speech may be helpful:

1816, The first Tariff primarily for protection was adopted.
1824, This was modified, and increased still further, in the interest of protection.

1828, The "Tariff of Abominations." This discriminated against the South.

1828, Calhoun published his *Exposition of the Theory of Nullification*, for the South Carolina Legislature. This is known as "The South Carolina Exposition," and was the first open assertion of Nullification as a Constitutional right. See *Works of Calhoun*.

1830, April 13. Jackson's famous toast at the Jefferson Banquet: "The Union, it must and shall be preserved." Calhoun offered in reply: "The Union,—next to our liberty the most dear; may we all remember that it can only be preserved by respecting the rights of the States, and distributing equally the benefits and burdens of the Union."

1831, July 26, Calhoun issues his "Address to the People of South Carolina," from Fort Hill, reviewing the ground of nullification. This is sometimes known as "The Fort Hill Address." See *Works of Calhoun*.

1832, July 14. New Tariff, abolishing "abominations," but maintaining the principle of Protection, reverting to the basis of the Tariff of 1824. This new Tariff was to go into effect in March, 1833. It did not satisfy South Carolina.

1832, August 28. Appears Calhoun's Letter to Governor Hamilton, of South Carolina, reviewing the argument for nullification.

1832, November 24. The South Carolina Ordinance of Nullification is passed. It declared the Tariff Acts of 1828 and 1832 null and void in South Carolina; prohibited the payment of the duties under the acts after February 1, 1833; made an appeal to the United States Courts contempt of State Courts, punishable at the discretion of the latter; ordered every officer and juror to be sworn to support the ordinance; and gave warning that

if the U. S. Government should attempt to enforce the Tariff acts by the army and navy, South Carolina would no longer consider herself a member of the Union, but would set up a separate government.

1832, November. Jackson interpreted his re-election as an endorsement, not only of his attitude toward the Bank, but of his position on nullification ; and on

1832, December 11, he issues his Proclamation against Nullification.

1832, December. Hayne is made Governor of South Carolina, and Calhoun resigns the Vice-Presidency to become Senator.

1832, December 31. Governor Hayne issues a counter proclamation, urging upon the citizens of South Carolina that their primary allegiance is due to their State.

1833, January 16. In a special message, Jackson asks Congress for special power to enforce the revenue laws, to use the land and naval forces in their execution.

The "Force Bill," or, more properly, the *Revenue Enforcement Bill*, called by its enemies the "bloody bill," was then soon introduced. It provided for the forcible seizure of all vessels and cargoes arriving within the ports of South Carolina, and their detention until the duties were paid ; extended the jurisdiction of the United States Courts over such property within the State, authorizing penalties for attempts to dispossess the United States revenue officers ; and denied the jurisdiction of the State Courts ; and authorized the President to employ the military and naval forces and the militia of the United States in enforcement of the laws. The "Force Bill" became a law on March 2, 1833.

Meanwhile, Congress, from its meeting in December,

1832, was looking toward a modification of the tariff acts complained of. On December 27, 1832, the Verplanck Bill, the administration measure, was introduced into the House. This proposed to revert to the duties of 1816. On February 12, 1833, Clay introduced his Compromise Tariff Bill into the Senate. This proposed that after December 1, 1833, all *ad valorem* duties should be reduced one-tenth every two years until June 1, 1842, when a maximum of twenty per cent. should obtain. This bill displaced the Verplanck Bill in the House and was passed there on February 26, 1833. The Compromise Act passed the Senate by the co-operation of Calhoun and the nullifiers, and became a law on the same day with the Force Bill, March 2, 1833.

It is not evident therefore, which had the greater influence in inducing South Carolina to recede from her position, the determination of the Federal Government to enforce the laws, or the readiness which that government indicated to make concessions. It is evident that the spirit of conciliation was largely relied upon to restore peace and union in this "crisis." For, when the revenue enforcement bill was presented in the House on February 8th, by Mr. Bell of the Judiciary Committee, the report of the Committee accompanying it asserted: "*When, therefore, a law is made by the government so oppressive and destructive to the interests of the people of one of these States, as to determine them to resist it at every hazard, it is evidence of the justice of their complaints, which should not be disregarded; and it is the bounden duty of the Legislature, instead of devising vigorous means to enforce it, to modify the obnoxious law.*"

This does not sound much like the spirit of enforce-

ment, and it was objected to by Mr. Stewart in the House as "nullification in all its length and breadth. A State was to be the judge of the law, and if she determined to resist it, that was to be taken as an evidence of its injustice, and so the government was bound further to modify the law; *i. e.*, to knuckle and submit." *

It is useless to speculate as to which authority, State or National, would have prevailed if conciliation had not obtained and the issue had been left to force. That issue was not faced until a generation later. The principle was left undecided. Dr. Von Holst says that "if either party had a right to claim the victory, it certainly was not Jackson and the majority of Congress, but Calhoun and South Carolina." † It is not probable that South Carolina would have been supported in 1832 by the people of so many States as came to her support in 1861. In that case it is apparent that she would have been forced to recede and the national authority would have been maintained.

For further study of this subject see the Documents transmitted to Congress with the special message of President Jackson, January 16, 1833, found in Gales and Seaton's *Register of the Debates of Congress*, 1832–33, vol. ix., Part II., Appendix. Also Jenkins' *Life of Calhoun;* Von Holst's *Life of Calhoun; Calhoun's Works*, edited by Cralle; Schouler's *United States History*.

3. The Test Oath Act of South Carolina was one of several acts designed to carry the Ordinance of Secession into effect.

* Gales and Seaton's *Register of Debates*, vol. ix., part ii., p. 1678.

† *Life of John C. Calhoun*, p. 106.

It may be found in Gales and Seaton's *Register of Debates*, vol. ix., p. 180 of Appendix. The substance of the required oath is set forth in Jackson's special message of January 16th, p. 147, Appendix, of the same volume.

4. Calhoun defends South Carolina against the charge of having acted precipitately, asserting that her peaceful resistance to the oppressive laws had extended over a period of twelve years.

5. Calhoun here examined in detail the provisions of the bill pointing out his objections.

6. This is a worthy tribute to the logical and analytical mind, such a mind as Calhoun himself possessed in the highest degree.

7. Calhoun here proceeds to answer some of the arguments which had been made on behalf of the bill: 1. That the bill ought to pass because the law must be enforced. He asks whether its advocates would enforce a law "without considering whether it be just or unjust, constitutional or unconstitutional?" 2. That the Union must be preserved at all hazards. He contends that this cannot be done by force.

7. The right to tax the Colonies *incidentally*, by the regulation of the commerce of the empire was conceded by the colonists before the Revolution. This power of incidental taxation was what Burke called "An instrument of empire." This was not to be turned into a "means of revenue" by direct taxation. Is Calhoun's analogy to the point? See Burke's *Speech on American Taxation*, and Franklin's *Testimony Before a Committee of the House of Commons;* Franklin's *Works*, and Woodburn's *Causes of the American Revolution*, "Johns Hopkins University Studies."

THOMAS H. BENTON.

1. Thomas H. Benton was born near Hillsborough, North Carolina, March 14, 1782. He studied at a grammar school and afterwards at the University of North Carolina. He moved with his mother's family, his father having died when Thomas was only eight years old, to Tennessee, settling twenty-five miles from Nashville. Benton studied law with St. George Tucker, entered the United States army in 1810, and was admitted to the bar in Nashville in 1811, under the patronage of Andrew Jackson, at that time Judge of the Supreme Court of Tennessee. During the war of 1812 he was aide-de-camp to Jackson. Owing to a quarrel and a duel between his brother, Jesse Benton, and General Carroll, in which Jackson acted as Carroll's second, Benton and Jackson were estranged for years. In 1815 Benton removed to St. Louis, resuming there the practice of the law and also establishing a newspaper, *The Missouri Inquirer*. He persistently advocated the admission of Missouri to the Union, in spite of her pro-slavery constitution. He was elected to the United States Senate in 1820, taking his seat March 5, 1821, serving in that body until 1851. His life during this period is closely associated with the history of the Senate,—a history which he presented to the public in his valuable *Thirty Years' View*. He was defeated for re-election to the Senate in 1850 on account of his indifference to the interests of slavery. In 1852 he appealed to the people of his Congressional district and was elected to Congress over all opposition. He was defeated for re-election in 1854 ; he then retired from active politics, for two years devoting himself to his literary pursuits. In 1856 he was the Democratic candidate for Governor of Missouri, but was defeated on account of divisions within his party. In 1856 he supported James Buchanan for President against his own son-in-law, John C. Fremont. He died in Washington, D. C., April 10, 1858.

In addition to the *Thirty Years' View*, which traces our political history from 1820 to 1850, Benton published *An Abridgment of the Debates of Congress* (15 vols.), abridging the debates from the foundation of the government to the compromise debate of 1850; also an *Examination of the Dred Scott Decision.*

2. The first public suggestion of "Jackson's war upon the Bank" was made in the President's message of December, 1829. He renewed this suggestion in his messages of 1830 and 1831. The Bank's charter did not expire until 1836, but these suggestions of opposition moved the friends of the Bank to make early application to have the institution re-chartered. A bill re-chartering the Bank passed both Houses of Congress in July, 1832. Jackson vetoed the bill. This bill, with its veto, brought the Bank issue into prominence in the campaign of 1832, and both parties, for and against the Bank, appealed to the country. In this stage of the controversy the friends of the Bank seemed to be on the aggressive, but evidently it was not good politics for them to force the issue. Jackson was triumphantly re-elected. He held this election as a vindication of his course and as a commission to destroy the Bank. He now renewed his opposition more aggressively in his annual message of December, 1832, bringing charges of insolvency against the Bank and questioning whether the government deposits were safe. The House expressed confidence in the safety of the deposits. But the President was determined to remove them from the care of the Bank. The law placed the power of removal with the Secretary of the Treasury, not with the President. Jackson removed two Secretaries and appointed a third in order to secure a Secretary who favored his policy and who would work his will.

In September, 1833, Jackson informed his Cabinet that the removal had been determined upon, it was his own decision, should be his own act for which he would be responsible.

Secretary Taney immediately issued the order of removal, directing that no more government moneys should be deposited with the Bank, or its branches, and that the ten millions of public money then in the Bank should be gradually drawn upon as usual.

The Senate resolution censuring President Jackson for the removal of the deposits was offered by Mr. Clay on December 26, 1833. The resolution was as follows:

Resolved, That, by dismissing the late Secretary of the Treasury, because he would not, contrary to his own sense of duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States, not granted him by the Constitution and laws, and dangerous to the liberties of the people.

On the 28th of March, 1834, this was changed to read:

Resolved, That the President, in the late executive proceedings in relation to the revenue, has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both.

The resolution was adopted in this form. President Jackson was not disposed to rest under this public censure. Accordingly he sent a "Protest" to the Senate setting forth his defense, which the action of the Senate had given him no other opportunity to make. This "Protest" the Senate refused to receive or to give a place upon the records. "From the moment of the Senate's condemnation of General Jackson, Mr. Benton gave notice of his intention to move the expunction of the sentence from the journal, periodically and continually until the object should be effected, or his political life come to its end." *

* Benton's *Thirty Years*, vol. i., p. 528.

Benton first made his formal motion in the session of '34–'35 as follows :

Resolved, That the resolution adopted by the Senate on March 28, 1834 (quoting the resolution given above), be, and the same hereby is, ordered to be expunged from the journals of the Senate ; because the said resolution is illegal and unjust, of evil example, indefinite and vague, expressing a criminal charge without specification ; and was irregularly and unconstitutionally adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer ; and at a time and under circumstances to endanger the political rights, and to injure the pecuniary interests of the people of the United States.

Two years later, in the last session of Congress during President Jackson's term, a majority of the Senate had become favorable to Jackson. Some States had superseded their Senators who had given the adverse votes, others had sent legislative instructions to vote for expunging. These instructions were supposed to carry with them the obligation of obedience or resignation. Mr. Benton gave early notice of his intention to bring in his unwelcome resolution and to press it to a decision. Heretofore, being in a minority in the Senate, Benton made his motion merely for the purpose of getting an opportunity to make a speech, to influence the public sentiment of the country. His opponents would press the motion to a vote, against Benton's desire, in order to "apply their majority to the case," to vote it down. But now the tables were turned ; Benton was for a decision, his opponents were for staving off. On December 26, 1836—the third anniversary of the day on which Mr. Clay had moved the resolution of censure—Mr. Benton laid before the Senate for the third time his motion to expunge :

"*Resolved*, That the said resolve be expunged from the journal ; and, for that purpose, that the Secretary of the Sen-

ate, at such time as the Senate may appoint, shall bring the manuscript journal of the session 1833–34 into the Senate, and, in the presence of the Senate, draw black lines round the said resolve, and write across the face thereof, in strong letters, the following words: 'Expunged by order of the Senate, this ..... day of ....., in the year of our Lord 1837.'"

After animated debates, in which Clay, Webster, and Calhoun opposed expunging, the resolution was carried in a midnight session by a vote of 25 to 19.

"Mr. Benton then rose, and said that nothing now remained but to execute the order of the Senate, which he moved be done forthwith. It was ordered accordingly. The Secretary thereupon produced the original manuscript journal of the Senate, and opening at the page which contained the condemnatory sentence of March 28, 1834, proceeded in open Senate to draw a square of broad black lines around the sentence, and to write across its face in strong letters these words: 'Expunged by order of the Senate, this 16th day of January, 1837.'"

This speech of Benton's was his third and last upon this subject.

3. No President preceding Jackson had used the veto so frequently. Jackson vetoed as many bills—nine in all—as all his predecessors together. His vigorous use of the veto aroused opposition to this constitutional power of the President, and opposition to the veto became one of the bonds of union among the Whigs in their party opposition to Jackson. Benton thus felt called upon to defend the use which his chief had made of the veto.

4. The scene during the expunging operation was an interesting one. It is described at length in Benton's *Thirty Years'*

View, vol. i., p. 730. The chandelier was lit up and the galleries were crowded. As the Secretary began to draw the black lines around the journal, there was a storm of hisses and groans in the gallery over Senator Benton's head. On Benton's motion, the ringleader of the disorderly crowd was seized and brought to the bar of the Senate, after which the expunging process was performed in quiet.

Jackson took the greatest interest in the expunging resolution and debate. After his "vindication" he gave a dinner to the expunging Senators and their wives, leaving a sick-bed to welcome his guests, and honoring Benton as the "head expunger" by giving him his own place at the head of the table.

Mr. Theodore Roosevelt says of the expunging resolution:

"Few now would defend this resolution. The original resolution of censure may have been of doubtful propriety; but it was passed, was entered on the record, and had become a part of the journal of the Senate. It would have been perfectly proper to pass another resolution condemning or reversing the original one, and approving the course of the president, but it was in the highest degree improper to set about what was in form falsifying the record. Still Benton found plenty of precedents in the annals of other legislative bodies for what he proposed to do, and the country, as a whole, backed him up heartily."—*Life of Benton*, pp. 139, 140.

"Benton discharged all sorts of missiles at the head of an adversary like a catapult. Tropes, metaphors, similes, unsavory allusions, vituperative epithets, damnatory personalities he hurled upon the victim of his temporary anger. He neither sought nor gave quarter; one of the regular black Hussars of debate. His manner, if possible, was yet more excited than his language, and his voice more belligerent than

either. His whole attitude was defiance, and each gesture a provocation.

"His speech was as often extraordinary as his manner. He brought together such a mass of crude, undigested, indigestible compilations, overwhelming the subject matter in its accidents, so much useless accumulation, disjointed and inconsequent facts, impertinent allusions, and loose though labored analogies, one could not but imagine he had made a foray into the territory of history, and seized upon booty of which he neither knew the value nor cared for the destination.

"His egotism at times was almost ferocious; it interpenetrated every part of his speech, and made it sometimes absurd, sometimes farcical, and always offensive. But whenever for a time he forgot himself in his subject, and became wholly absorbed in its consideration, he was an antagonist not to be despised. He had read much, he had observed much, he had hoarded much; and all he had read, observed, or hoarded he held at a moment's command.

"I speak of him as he was. Twenty years have passed since then. The closer study of mankind, of books, and of himself has liberalized his temper, chastened his style, and subdued his manner. He commits no such solecism of thought or conduct as formerly. He arrogates less for his own position now, concedes more to his opponents. His speech is less discursive and more argumentative; it neglects persons and embraces propositions; is more suggestive, logical, and final. Still, though his deportment has more suavity, his manner more amenity, and his speech less personality than of old, he does not roar you now as gently an' 't were any nightingale. He is Boanerges still."—March's *Reminiscences of Congress*, pp. 97–99.

References: Benton's *Thirty Years' View*, vol. i.; Roosevelt's *Life of Benton;* Schouler's *History of the United States*, vol. iv.; *Debates of Congress*, 1836–7.

VOL. I

PART TWO

VOL. I.—PART II

CONTENTS.

V.—THE ANTI-SLAVERY STRUGGLE.

PAGE

THE ANTI-SLAVERY STRUGGLE 3

RUFUS KING 33
ON THE MISSOURI STRUGGLE—UNITED STATES SENATE, FEBRUARY 11 AND 14, 1820.

WILLIAM PINKNEY 63
ON THE MISSOURI STRUGGLE—UNITED STATES SENATE, FEBRUARY 15, 1820.

WENDELL PHILLIPS 102
ON THE MURDER OF LOVEJOY—FANEUIL HALL, BOSTON, DECEMBER 8, 1837.

JOHN QUINCY ADAMS 115
ON THE CONSTITUTIONAL WAR POWER OVER SLAVERY—HOUSE OF REPRESENTATIVES, MAY 25, 1836.

JOHN C. CALHOUN 123
ON THE SLAVERY QUESTION—UNITED STATES SENATE, MARCH 4, 1850.

DANIEL WEBSTER 161
ON THE CONSTITUTION AND THE UNION—UNITED STATES SENATE, MARCH 7, 1850.

HENRY CLAY 202
ON THE COMPROMISE OF 1850—UNITED STATES SENATE, JULY 22, 1850.

PAGE

WENDELL PHILLIPS 219
ON THE PHILOSOPHY OF THE ABOLITION MOVEMENT—BEFORE THE MASSACHUSETTS, ANTI-SLAVERY SOCIETY, BOSTON, JANUARY 27, 1853.

CHARLES SUMNER 268
ON THE REPEAL OF THE FUGITIVE SLAVE LAW—UNITED STATES SENATE, AUGUST 26, 1852.

APPENDIX, NOTES 343

VOLUME I.—PART II.

V.

THE ANTI-SLAVERY STRUGGLE.

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THE ANTI-SLAVERY STRUGGLE.

NEGRO slavery was introduced into all the English colonies of North America as a custom, and not under any warrant of law. The enslavement of the negro race was simply a matter against which no white person chose to enter a protest, or make resistance, while the negroes themselves were powerless to resist or even protest. In due course of time laws were passed by the Colonial Assemblies to protect property in negroes, while the home government, to the very last, actively protected and encouraged the slave trade to the colonies. Negro slavery in all the colonies had thus passed from custom to law before the American Revolution broke out; and the course of the Revolution itself had little or no effect on the system.

From the beginning, it was evident that the course of slavery in the two sections, North and South, was to be altogether divergent. In the colder North, the dominant race found it easier to work than to compel negroes to work: in the warmer South, the case was exactly reversed. At the close of the Revolution, Massachusetts led the way in an abolition of slavery, which was followed gradually by the other States north of Virginia; and in 1787 the ordinance of Congress organizing the Northwest Territory made all the future States north of the Ohio free States. "Mason and Dixon's line" and the Ohio River thus seemed, in 1790, to be the natural boundary between the free and the slave States.

Up to this point the white race in the two sections had dealt with slavery by methods which were simply divergent, not antagonistic. It was true that the percentage of slaves in the total population had been very rapidly decreasing in the North and not in the South, and that the gradual abolition of slavery was proceeding

in the North alone, and that with increasing rapidity. But there was no positive evidence that the South was bulwarked in favor of slavery; there was no certainty but that the South would in its turn and in due time come to the point which the North had already reached, and begin its own abolition of slavery. The language of Washington, Jefferson, Madison, Henry, and Mason, in regard to the evils or the wickedness of the system of slavery, was too strong to be heard with patience in the South of after years; and in this section it seems to have been true, that those who thought at all upon the subject hoped sincerely for the gradual abolition of slavery in the South. The hope, indeed, was rather a sentiment than a purpose, but there seems to have been no good reason, before 1793, why the sentiment should not finally develop into a purpose.

All this was permanently changed, and the slavery policy of the South was made antagonistic to, and not merely divergent from, that of the North, by the invention of Whitney's saw

gin for cleansing cotton in 1793. It had been known, before that year, that cotton could be cultivated in the South, but its cultivation was made unprofitable, and checked by the labor required to separate the seeds from the cotton. Whitney's invention increased the efficiency of this labor hundreds of times, and it became evident at once that the South enjoyed a practical monopoly of the production of cotton. The effect on the slavery policy of the South was immediate and unhappy. Since 1865, it has been found that the cotton monopoly of the South is even more complete under a free than under a slave labor system, but mere theory could never have convinced the Southern people that such would be the case. Their whole prosperity hinged on one product; they began its cultivation under slave labor; and the belief that labor and prosperity were equally dependent on the enslavement of the laboring race very soon made the dominant race active defenders of slavery. From that time the system in the South was one of slowly but steadily

increasing rigor, until, just before 1860, its last development took the form of legal enactments for the re-enslavement of free negroes, in default of their leaving the State in which they resided. Parallel with this increase of rigor, there was a steady change in the character of the system. It tended very steadily to lose its original patriarchal character, and take the aspect of a purely commercial speculation. After 1850, the commercial aspect began to be the rule in the black belt of the Gulf States. The plantation knew only the overseer; so many slaves died to so many bales of cotton; and the slave population began to lose all human connection with the dominant race.

The acquisition of Louisiana in 1803 more than doubled the area of the United States, and far more than doubled the area of the slave system. Slavery had been introduced into Louisiana, as usual, by custom, and had then been sanctioned by Spanish and French law. It is true that Congress did not forbid slavery in the new territory of Louisiana; but Congress

did even worse than this; under the guise of forbidding the importation of slaves into Louisiana, by the act of March 26, 1804, organizing the territory, the phrase "except by a citizen of the United States, removing into said territory for actual settlement, and being at the time of such removal *bona fide* owner of such slave or slaves," impliedly legitimated the domestic slave trade to Louisiana, and legalized slavery wherever population should extend between the Mississippi and the Rocky Mountains. The Congress of 1803–05, which passed the act, should rightfully bear the responsibility for all the subsequent growth of slavery, and for all the difficulties in which it involved the South and the country.

There were but two centres of population in Louisiana, New Orleans and St. Louis. When the southern district, around New Orleans, applied for admission as the slave State of Louisiana, there seems to have been no surprise or opposition on this score; the Federalist opposition to the admission is exactly represented

by Quincy's speech in the first volume. When the northern district, around St. Louis, applied for admission as the slave State of Missouri, the inevitable consequences of the act of 1804 became evident for the first time, and all the Northern States united to resist the admission. The North controlled the House of Representatives, and the South the Senate; and, after a severe parliamentary struggle, the two bodies united in the compromise of 1820. By its terms Missouri was admitted as a slave State, and slavery was forever forbidden in the rest of Louisiana Territory, north of latitude 36° 30′ (the line of the southerly boundary of Missouri). The instinct of this first struggle against slavery extension seems to have been much the same as that of 1846–60—the realization that a permission to introduce slavery by custom into the Territories meant the formation of slave States exclusively, the restriction of the free States to the district between the Mississippi and the Atlantic, and the final conversion of the mass of the United States to a policy of enslavement

of labor. But, on the surface, it was so entirely a struggle for the balance of power between the two sections, that it has not seemed worth while to introduce any of the few reported speeches of the time. The topic is more fully and fairly discussed in the subsequent debates on the Kansas-Nebraska Act.

In 1830 William Lloyd Garrison, a Boston printer, opened the real anti-slavery struggle. Up to this time the anti-slavery sentiment, North and South, had been content with the notion of "gradual abolition," with the hope that the South would, in some yet unsuspected manner, be brought to the Northern policy. This had been supplemented, to some extent, by the colonization society for colonizing negroes on the west coast of Africa, which had two aspects: at the South it was the means of ridding the country of the free negro population; at the North it was a means of mitigating, perhaps of gradually abolishing, slavery. Garrison, through his newspaper, the *Liberator*, called for "immediate abolition" of slavery,

for the conversion of anti-slavery sentiment into anti-slavery purpose. This was followed by the organization of his adherents into the American Anti-Slavery Society in 1833, and the active dissemination of the immediate abolition principle by tracts, newspapers, and lecturers.

The anti-slavery struggle thus begun, never ceased until, in 1865, the *Liberator* ceased to be published, with the final abolition of slavery. In its inception and in all its development the movement was a distinct product of the democratic spirit. It would not have been possible in 1790, or in 1810, or in 1820. The man came with the hour; and every new mile of railroad or telegraph, every new district open to population, every new influence toward the growth of democracy, broadened the power as well as the field of the abolition movement. It was but the deepening, the application to an enslaved race of laborers, of the work which Jeffersonian democracy had done, to remove the infinitely less grievous restraints upon the white laborer thirty year before. It could never have been begun

until individualism at the North had advanced so far that there was a reserve force of mind ready to reject all the influences of heredity and custom upon thought. Outside of religion there was no force so strong at the North as the reverence for the Constitution; it was significant of the growth of individualism, as well as of the anti-slavery sentiment, that Garrison could safely begin his work with the declaration that the Constitution itself was "a league with death and a covenant with hell."

The Garrisonian programme would undoubtedly have been considered highly objectionable by the South, even under the comparatively colorless slavery policy of 1790. Under the conditions to which cotton culture had advanced in 1830, it seemed to the South nothing less than a proposal to destroy, root and branch, the whole industry of that section, and it was received with corresponding indignation. Garrisonian abolitionists were taken and regarded as public enemies, and rewards were even offered for their capture. The germ of abolition-

ism in the Border States found a new and aggressive public sentiment arrayed against it; and an attempt to introduce gradual abolition in Virginia in 1832–33 was hopelessly defeated. The new question was even carried into Congress. A bill to prohibit the transportation of abolition documents by the Post-Office department was introduced, taken far enough to put leading men of both parties on the record, and then dropped. Petitions for the abolition of slavery in the District of Columbia were met by rules requiring the reference of such petitions without reading or action; but this only increased the number of petitions, by providing a new grievance to be petitioned against, and in 1842 the "gag rule" was rescinded. Thenceforth the pro-slavery members of Congress could do nothing, and could only become more exasperated under a system of passive resistance.

Even at the North, indifferent or politically hostile as it had hitherto shown itself to the expansion of slavery, the new doctrines were received with an outburst of anger which seems

to have been primarily a revulsion against their unheard of individualism. If nothing, which had been the object of unquestioning popular reverence, from the Constitution down or up to the church organizations, was to be sacred against the criticism of the Garrisonians, it was certain that the innovators must submit for a time to a general proscription. Thus the Garrisonians were ostracised socially, and became the Ishmælites of politics. Their meetings were broken up by mobs, their halls were destroyed, their schools were attacked by all the machinery of society and legislation, their printing presses were silenced by force or fraud, and their lecturers came to feel that they had not done their work with efficiency if a meeting passed without the throwing of stones or eggs at the building or the orators. It was, of course, inevitable that such a process should bring strong minds to the aid of the Garrisonians, at first from sympathy with persecuted individualism, and finally from sympathy with the cause itself; and in this way Garrisonianism was in a

great measure relieved from open mob violence about 1840, though it never escaped it altogether until abolition meetings ceased to be necessary. One of the first and greatest reinforcements was the appearance of Wendell Phillips, whose speech at Faneuil Hall in 1837 was one of the first tokens of a serious break in the hitherto almost unanimous public opinion against Garrisonianism. Lovejoy, a Western anti-slavery preacher and editor, who had been driven from one place to another in Missouri and Illinois, had finally settled at Alton, and was there shot to death while defending his printing press against a mob. At a public meeting in Faneuil Hall, the Attorney-General of Massachusetts, James T. Austin, expressing what was doubtless the general sentiment of the time as to such individual insurrection against pronounced public opinion, compared the Alton mob to the Boston "tea-party," and declared that Lovejoy, "presumptuous and imprudent," had "died as the fool dieth." Phillips, an almost unknown man, took the stand,

and answered in the speech which opens this volume. A more powerful reinforcement could hardly have been looked for; the cause which could find such a defender was henceforth to be feared rather than despised. To the day of his death he was, fully as much as Garrison, the incarnation of the anti-slavery spirit. For this reason his address on the Philosophy of the Abolition Movement, in 1853, has been assigned a place as representing fully the abolition side of the question, just before it was overshadowed by the rise of the Republican party, which opposed only the extension of slavery to the territories.

The history of the sudden development of the anti-slavery struggle in 1845 and the following years, is largely given in the speeches which have been selected to illustrate it. The admission of Texas to the Union in 1845, and the war with Mexico which followed it, resulted in the acquisition of a vast amount of new territory by the United States. From the first suggestion of such an acquisition, the Wilmot proviso (so-

called from David Wilmot, of Pennsylvania, who introduced it in Congress), that slavery should be prohibited in the new territory, was persistently offered as an amendment to every bill appropriating money for the purchase of territory from Mexico. It was passed by the House of Representatives, but was balked in the Senate; and the purchase was finally made without any proviso. When the territory came to be organized, the old question came up again: the Wilmot proviso was offered as an amendment. As the territory was now in the possession of the United States, and as it had been acquired in a war whose support had been much more cordial at the South than at the North, the attempt to add the Wilmot proviso to the territorial organization raised the Southern opposition to an intensity which it had not known before. Fuel was added to the flame by the application of California, whose population had been enormously increased by the discovery of gold within her limits, for admission as a free State. If New Mexico should do the

same, as was probable, the Wilmot proviso would be practically in force throughout the best portion of the Mexican acquisition. The two sections were now so strong and so determined that compromise of any kind was far more difficult than in 1820; and it was not easy to reconcile or compromise the southern demand that slavery should be permitted, and the northern demand that slavery should be forbidden, to enter the new territories.

In the meantime, the Presidential election of 1848 had come and gone. It had been marked by the appearance of a new party, the Free Soilers, an event which was at first extremely embarrassing to the managers of both the Democratic and Whig parties. On the one hand, the northern and southern sections of the Whig party had always been very loosely joined together, and the slender tie was endangered by the least admission of the slavery issue. On the other hand, while the Democratic national organization had always been more perfect, its northern section had always been

much more inclined to active anti-slavery work than the northern Whigs. Its organ, the *Democratic Review*, habitually spoke of the slaves as "our black brethren"; and a long catalogue could be made of leaders like Chase, Hale, Wilmot, Bryant, and Leggett, whose democracy was broad enough to include the negro. To both parties, therefore, the situation was extremely hazardous. The Whigs had less to fear, but were able to resist less pressure. The Democrats were more united, but were called upon to meet a greater danger. In the end, the Whigs did nothing; their two sections drew further apart; and the Presidential election of 1852 only made it evident that the national Whig party was no longer in existence. The Democratic managers evolved, as a solution of their problem, the new doctrine of "popular sovereignty," which Calhoun rebaptized "squatter sovereignty." They asserted as the true Democratic doctrine, that the question of slavery or freedom was to be left for decision of the people of the territory

itself. To the mass of northern Democrats, this doctrine was taking enough to cover over the essential nature of the struggle; the more democratic leaders of the northern Democracy were driven off into the Free-Soil party; and Douglas, the champion of "popular sovereignty," became the leading Democrat of the North.

Clay had re-entered the Senate in 1849, for the purpose of compromising the sectional difficulties as he had compromised those of 1820 and of 1833. His speech, as given, will show something of his motives; his success resulted in the "compromise of 1850." By its terms, California was admitted as a free State; the slave trade, but not slavery, was prohibited in the District of Columbia; a more stringent fugitive slave law was enacted; Texas was paid $10,000,000 for certain claims to the Territory of New Mexico; and the Territories of Utah and New Mexico, covering the Mexican acquisition outside of California, were organized without mentioning slavery. The last-named

feature was carefully designed to please all important factions. It could be represented to the Webster Whigs that slavery was excluded from the Territories named by the operation of natural laws; to the Clay Whigs that slavery had already been excluded by Mexican law which survived the cession; to the northern Democrats, that the compromise was a formal endorsement of the great principle of popular sovereignty; and to the southern Democrats that it was a repudiation of the Wilmot proviso. In the end, the essence of the success went to the last-named party, for the legislatures of the two territories established slavery, and no bill to veto their action could pass both Houses of Congress until after 1861.

The Supreme Court had already decided that Congress had exclusive power to enforce the fugitive slave clause of the Constitution, though the fugitive slave law of 1793 had given a concurrent authority of execution to State officers. The law of 1850, carrying the Supreme Court's decision further, gave the execution of the law

to United States officers, and refused the accused a hearing. Its execution at the North was therefore the occasion of a profound excitement and horror. Cases of inhuman cruelty, and of false accusation to which no defence was permitted, were multiplied until a practical nullification of the law, in the form of "personal liberty laws," securing a hearing for the accused before State magistrates, was forced by public opinion upon the legislature of the exposed northern States. Before the excitement had come to a head, the Whig convention of 1852 met and endorsed the compromise of 1850 "in all its parts." Overwhelmed in the election which followed, the Whig party was popularly said to have "died of an attempt to swallow the fugitive-slave law"; it would have been more correct to have said that the southern section of the party had deserted in a body and gone over to the Democratic party. National politics were thus left in an entirely anomalous condition. The Democratic party was omnipotent at the South, though it was afterward opposed

feebly by the American (or "Know Nothing") organization, and was generally successful at the North, though it was still met by the Northern Whigs with vigorous opposition. Such a state of affairs was not calculated to satisfy thinking men; and this period seems to have been one in which very few thinking men of any party were at all satisfied with their party positions.

This was the hazardous situation into which the Democratic managers chose to thrust one of the most momentous pieces of legislation in our political history—the Kansas-Nebraska bill. The responsibility for it is clearly on the shoulders of Stephen A. Douglas. The overland travel to the Pacific coast had made it necessary to remove the Indian title to Kansas and Nebraska, and to organize them as Territories, in order to afford protection to emigrants; and Douglas, chairman of the Senate committee on Territories, introduced a bill for such organization in January, 1854. Both these prospective Territories had been made

free soil forever by the compromise of 1820; the question of slavery had been settled, so far as they were concerned; but Douglas consented, after a show of opposition, to reopen Pandora's box. His original bill did not abrogate the Missouri compromise, and there seems to have been no general Southern demand that it should do so. But Douglas had become intoxicated by the unexpected success of his "popular sovereignty" make-shift in regard to the Territories of 1850; and a notice of an amendment to be offered by a southern senator, abrogating the Missouri compromise, was threat or excuse sufficient to bring him to withdraw the bill. A week later, it was reintroduced with the addition of "popular sovereignty": all questions pertaining to slavery in these Territories, and in the States to be formed from them, were to be left to the decision of the people, through their representatives; and the Missouri compromise of 1820 was declared "inoperative and void," as inconsistent with the principles of the territorial

legislation of 1850. It must be remembered that the "non-intervention" of 1850 had been confessedly based on no constitutional principle whatever, but was purely a matter of expediency; and that "non-intervention" in Utah and New Mexico was no more inconsistent with the prohibition of slavery in Kansas and Nebraska than "non-intervention" in the Southwest Territory, sixty years before, had been inconsistent with the prohibition of slavery in the Northwest Territory. Whether Douglas is to be considered as too scrupulous, or too timid, or too willing to be terrified, it is certain that his action was unnecessary.

After a struggle of some months, the Kansas-Nebraska bill became law. The Missouri compromise was abrogated, and the question of the extension of slavery to the territories was adrift again, never to be got rid of except through the abolition of slavery itself by war. The demands of the South had now come fully abreast with the proposal of Douglas: that slavery should have *permission* to enter all the Territories, if it

could. The opponents of the extension of slavery, at first under the name of "Anti-Nebraska men," then of the Republican party, carried the elections for representatives in Congress in 1854–'55, and narrowly missed carrying the Presidential election of 1856. The percentage of Democratic losses in the congressional districts of the North was sufficient to leave Douglas with hardly any supporters in Congress from his own section. The Democratic party was converted at once into a solid South, with a northern attachment of popular votes which was not sufficient to control very many Congressmen or electoral votes.

Immigration into Kansas was organized at once by leading men of the two sections, with the common design of securing a majority of the voters of the territory and applying "popular sovereignty" for or against slavery. The first sudden inroad of Missouri intruders was successful in securing a pro-slavery legislature and laws; but within two years the stream of free-State immigration had become so powerful,

in spite of murder, outrage, and open civil war, that it was very evident that Kansas was to be a free-State. Its expiring territorial legislature endeavored to outwit its constituents by applying for admission as a slave State, under the Lecompton constitution; but the Douglas Democrats could not support the attempt, and it was defeated. Kansas, however, remained a territory until 1861.

The cruelties of this Kansas episode could not but be reflected in the feelings of the two sections and in Congress. In the former it showed too plainly that the divergence of the two sections, indicated in Calhoun's speech of 1850, had widened to an absolute separation in thought, feeling, and purpose. In the latter the debates assumed a virulence which is illustrated by the speeches on the Sumner assault. The current of events had at least carried the sections far enough apart to give striking distance; and the excuse for action was supplied by the Dred Scott decision in 1857.

Dred Scott, a Missouri slave, claiming to be

a free man under the Missouri compromise of 1820, had sued his master, and the case had reached the Supreme Court. A majority of the justices agreed in dismissing the suit; but, as nearly every justice filed an opinion, and as nearly every opinion disagreed with the other opinions on one or more points, it is not easy to see what else is covered by the decision. Nevertheless, the opinion of the Chief Justice, Roger B. Taney, attracted general attention by the strength of its argument and the character of its views. It asserted, in brief, that no slave could become a citizen of the United States, even by enfranchisement or State law; that the prohibition of slavery by the Missouri compromise of 1820 was unconstitutional and void; that the Constitution recognized property in slaves, and was framed for the protection of property; that Congress had no rights or duties in the territories but such as were granted or imposed by the Constitution; and that, therefore, Congress was bound not merely not to forbid slavery, but to actively protect slavery in

the Territories. This was just the ground which had always been held by Calhoun, though the South had not supported him in it. Now the South, rejecting Douglas and his "popular sovereignty," was united in its devotion to the decision of the Supreme Court, and called upon the North to yield unhesitating obedience to that body which Webster in 1830 had styled the ultimate arbiter of constitutional questions. This, it was evident, could never be. No respectable authority at the North pretended to uphold the keystone of Taney's argument, that slaves were regarded as property by the Constitution. On the contrary, it was agreed everywhere by those whose opinions were looked to with respect, that slaves were regarded by the Constitution as "persons held to service or labor" under the laws of the State alone; and that the laws of the State could not give such persons a fictitious legal character outside of the State's jurisdiction. Even the Douglas Democrats, who expressed a willingness to yield to the Supreme Court's decision, did not profess to uphold Taney's share in it.

As the Presidential election of 1860 drew near, the evidences of separation became more manifest. The absorption of northern Democrats into the Republican party increased until Douglas, in 1858, narrowly escaped defeat in his contest with Lincoln for a re-election to the Senate from Illinois. In 1860 the Republicans nominated Lincoln for the Presidency on a platform demanding prohibition of slavery in the Territories. The southern delegates seceded from the Democratic convention, and nominated Breckenridge, on a platform demanding congressional protection of slavery in the Territories. The remainder of the Democratic convention nominated Douglas, with a declaration of its willingness to submit to the decision of the Supreme Court on questions of constitutional law. The remnants of the former Whig and American parties, under the name of the Constitutional Union party, nominated Bell without any declaration of principles. Lincoln received a majority of the electoral votes, and became President. His popular vote was a plurality.

Seward's address on the "Irrepressible Conflict," which closes this volume, is representa tive of the division between the two sections, as it stood just before the actual shock of conflict. Labor systems are delicate things; and that which the South had adopted, of enslaving the laboring class, was one whose influence could not help being universal and aggressive. Every form of energy and prosperity which tended to advance a citizen into the class of representative rulers tended also to make him a slave owner, and to shackle his official policy and purposes with considerations inseparable from his heavy personal interests. Men might divide on other questions at the South; but on this question of slavery the action of the individual had to follow the decisions of a majority which, by the influence of ambitious aspirants for the lead, was continually becoming more aggressive. In constitutional countries, defections to the minority are a steady check upon an aggressive majority; but the southern majority was a steam engine without a safety valve.

In this sense Seward and Lincoln, in 1858, were correct; the labor system of the South was not only a menace to the whole country, but one which could neither decrease nor stand still. It was intolerable by the laws of its being; and it could be got rid of only by allowing a peaceable secession, or by abolishing it through war. The material prosperity which has followed the adoption of the latter alternative, apart from the moral aspects of the case, is enough to show that the South has gained more than all that slavery lost.

RUFUS KING,*

OF NEW YORK.[1]

(BORN 1755, DIED 1827.)

ON THE MISSOURI BILL[2]—UNITED STATES SENATE, FEBRUARY 11 AND 14, 1820.

THE Constitution declares "that Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory and other property of the United States." Under this power Congress have passed laws for the survey and sale of the public lands; for the division of the same into separate territories; and have ordained for each of them a constitution, a plan of temporary government, whereby the civil and political rights of the inhabitants are regulated, and the rights of conscience and other natural rights are protected.

*For notes on King, see Appendix, p. 343.

The power to make all needful regulations, includes the power to determine what regulations are needful; and if a regulation prohibiting slavery within any territory of the United States be, as it has been, deemed needful, Congress possess the power to make the same, and, moreover, to pass all laws necessary to carry this power into execution.

The territory of Missouri is a portion of Louisiana, which was purchased of France, and belongs to the United States in full dominion; in the language of the Constitution, Missouri is their territory or property, and is subject like other territories of the United States, to the regulations and temporary government, which has been, or shall be prescribed by Congress. The clause of the Constitution which grants this power to Congress, is so comprehensive and unambiguous, and its purpose so manifest, that commentary will not render the power, or the object of its establishment, more explicit or plain.

The Constitution further provides that "new States may be admitted by Congress into this Union." As this power is conferred without limitation, the time, terms, and circumstances of the admission of new States, are referred to

the discretion of Congress; which may admit new States, but are not obliged to do so—of right no new State can demand admission into the Union, unless such demand be founded upon some previous engagement of the United States.

When admitted by Congress into the Union, whether by compact or otherwise, the new State becomes entitled to the enjoyment of the same rights, and bound to perform the like duties as the other States; and its citizens will be entitled to all privileges and immunities of citizens in the several States.

The citizens of each State possess rights, and owe duties that are peculiar to, and arise out of, the Constitution and laws of the several States. These rights and duties differ from each other in the different States, and among these differences none is so remarkable or important as that which proceeds from the Constitution and laws of the several States respecting slavery; the same being permitted in some States and forbidden in others.

The question respecting slavery in the old thirteen States had been decided and settled before the adoption of the Constitution, which grants no power to Congress to interfere with,

or to change what had been so previously settled. The slave States, therefore, are free to continue or to abolish slavery. Since the year 1808 Congress have possessed power to prohibit and have prohibited the further migration or importation of slaves into any of the old thirteen States, and at all times, under the Constitution, have had power to prohibit such migration or importation into any of the new States or territories of the United States. The Constitution contains no express provision respecting slavery in a new State that may be admitted into the Union; every regulation upon this subject belongs to the power whose consent is necessary to the formation and admission of new States into the Union. Congress may, therefore, make it a condition of the admission of a new State, that slavery shall be forever prohibited within the same. We may, with the more confidence, pronounce this to be the true construction of the Constitution, as it has been so amply confirmed by the past decisions of Congress.

Although the articles of confederation were drawn up and approved by the old Congress, in the year 1777, and soon afterwards were ratified by some of the States, their complete

ratification did not take place until the year 1781. The States which possessed small and already settled territory, withheld their ratification, in order to obtain from the large States a cession to the United States of a portion of their vacant territory. Without entering into the reasons on which this demand was urged,[3] it is well known that they had an influence on Massachusetts, Connecticut, New York, and Virginia, which States ceded to the United States their respective claims to the territory lying northwest of the river Ohio. This cession was made on the express condition, that the ceded territory should be sold for the common benefit of the United States; that it should be laid out into States, and that the States so laid out should form distinct republican States, and be admitted as members of the Federal Union, having the same rights of sovereignty, freedom, and independence as the other States. Of the four States which made this cession, two permitted, and the other two prohibited slavery.

The United States having in this manner become proprietors of the extensive territory northwest of the river Ohio, although the confederation contained no express provision upon

the subject, Congress, the only representatives of the United States, assumed as incident to their office, the power to dispose of this territory; and for this purpose, to divide the same into distinct States, to provide for the temporary government of the inhabitants thereof, and for their ultimate admission as new States into the Federal Union.

The ordinance for those purposes, which was passed by Congress in 1787, contains certain articles, which are called "Articles of compact between the original States and the people and States within the said territory, for ever to remain unalterable, unless by common consent." The sixth of those unalterable articles provides, "that there shall be neither slavery nor involuntary servitude in the said territory."

The Constitution of the United States supplies the defect that existed in the articles of confederation, and has vested Congress, as has been stated, with ample powers on this important subject. Accordingly, the ordinance of 1787, passed by the old Congress, was ratified and confirmed by an act of the new Congress during their first session under the Constitution.

The State of Virginia, which ceded to the United States her claims to this territory, con-

sented by her delegates in the old Congress to this ordinance—not only Virginia, but North Carolina, South Carolina, and Georgia, by the unanimous votes of their delegates in the old Congress, approved of the ordinance of 1787, by which slavery is forever abolished in the territory northwest of the river Ohio.

Without the votes of these States, the ordinance could not have passed; and there is no recollection of an opposition from any of these States to the act of confirmation, passed under the actual Constitution. Slavery had long been established in these States—the evil was felt in their institutions, laws, and habits, and could not easily or at once be abolished. But these votes so honorable to these States, satisfactorily demonstrate their unwillingness to permit the extension of slavery into the new States which might be admitted by Congress into the Union.

The States of Ohio, Indiana, and Illinois, on the northwest of the river Ohio, have been admitted by Congress into the Union, on the condition and conformably to the article of compact, contained in the ordinance of 1787, and by which it is declared that there shall be neither slavery nor involuntary servitude in any of the said States.

Although Congress possess the power of making the exclusion of slavery a part or condition of the act admitting a new State into the Union, they may, in special cases, and for sufficient reasons, forbear to exercise this power. Thus Kentucky and Vermont were admitted as new States into the Union, without making the abolition of slavery the condition of their admission. In Vermont, slavery never existed; her laws excluding the same. Kentucky was formed out of, and settled by, Virginia, and the inhabitants of Kentucky, equally with those of Virginia, by fair interpretation of the Constitution, were exempt from all such interference of Congress, as might disturb or impair the security of their property in slaves. The western territory of North Carolina and Georgia, having been partially granted and settled under the authority of these States, before the cession thereof to the United States, and these States being original parties to the Constitution which recognizes the existence of slavery, no measure restraining slavery could be applied by Congress to this territory. But to remove all doubt on this head, it was made a condition of the cession of this territory to the United States, that the ordinance of 1787, except the sixth article

thereof, respecting slavery, should be applied to the same; and that the sixth article should not be so applied. Accordingly, the States of Tennessee, Mississippi, and Alabama, comprehending the territory ceded to the United States by North Carolina and Georgia, have been admitted as new States into the Union, without a provision, by which slavery shall be excluded from the same. According to this abstract of the proceedings of Congress in the admission of new States into the Union, of the eight new States within the original limits of the United States, four have been admitted without an article excluding slavery; three have been admitted on the condition that slavery should be excluded; and one admitted without such condition. In the few first cases, Congress were restrained from exercising the power to exclude slavery; in the next three, they exercised this power; and in the last, it was unnecessary to do so, slavery being excluded by the State Constitution.

The province of Louisiana, soon after its cession to the United States, was divided into two territories, comprehending such parts thereof as were contiguous to the river Mississippi, being the only parts of the province that were

inhabited. The foreign language, laws, customs, and manners of the inhabitants, required the immediate and cautious attention of Congress, which, instead of extending, in the first instance, to these territories the ordinance of 1787, ordained special regulations for the government of the same. These regulations were from time to time revised and altered, as observation and experience showed to be expedient, and as was deemed most likely to encourage and promote those changes which would soonest qualify the inhabitants for self-government and admission into the Union. When the United States took possession of the province of Louisiana in 1804, it was estimated to contain 50,000 white inhabitants, 40,000 slaves, and 2,000 free persons of color.

More than four-fifths of the whites, and all the slaves, except about thirteen hundred, inhabited New Orleans and the adjacent territory; the residue, consisting of less than ten thousand whites, and about thirteen hundred slaves, were dispersed throughout the country now included in the Arkansas and Missouri territories.[4] The greater part of the thirteen hundred slaves were in the Missouri territory, some of them having been removed thither from the old

French settlements on the east side of the Mississippi, after the passing of the ordinance of 1787, by which slavery in those settlements was abolished.

In 1812, the territory of New Orleans, to which the ordinance of 1787, with the exception of certain parts thereof, had been previously extended, was permitted by Congress to form a Constitution and State Government, and admitted as a new State into the Union, by the name of Louisiana. The acts of Congress for these purposes, in addition to sundry important provisions respecting rivers and public lands, which are declared to be irrevocable unless by common consent, annex other terms and conditions, whereby it is established, not only that the Constitution of Louisiana should be republican, but that it should contain the fundamental principles of civil and religious liberty, that it should secure to the citizens the trial by jury in all criminal cases, and the privilege of the writ of *habeas corpus* according to the Constitution of the United States; and after its admission into the Union, that the laws which Louisiana might pass, should be promulgated; its records of every description preserved; and its judicial and legislative pro-

ceedings conducted in the language in which the laws and judicial proceedings of the United States are published and conducted.

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Having annexed these new and extraordinary conditions to the act for the admission of Louisiana into the Union, Congress may, if they shall deem it expedient, annex the like conditions to the act for the admission of Missouri; and, moreover, as in the case of Ohio, Indiana, and Illinois, provide by an article for that purpose, that slavery shall not exist within the same.

Admitting this construction of the Constitution, it is alleged that the power by which Congress excluded slavery from the States northwest of the river Ohio, is suspended in respect to the States that may be formed in the province of Louisiana. The article of the treaty referred to declares: "That the inhabitants of the territory shall be incorporated in the Union of the United States, and admitted as soon as possible; according to the principles of the Federal Constitution, to the enjoyment of all rights, advantages, and immunities of citizens of the United States; and in the meantime, they shall be maintained and protected in the

free enjoyment of their liberty, property, and the religion which they profess." [6]

Although there is want of precision in the article, its scope and meaning can not be misunderstood. It constitutes a stipulation by which the United States engage that the inhabitants of Louisiana should be formed into a State or States, and as soon as the provisions of the Constitution permit, that they should be admitted as new States into the Union on the footing of the other States; and before such admission, and during their territorial government, that they should be maintained and protected by Congress in the enjoyment of their liberty, property, and religion. The first clause of this stipulation will be executed by the admission of Missouri as a new State into the Union, as such admission will impart to the inhabitants of Missouri "all the rights, advantages, and immunities" which citizens of the United States derive from the Constitution thereof; these rights may be denominated Federal rights, are uniform throughout the Union, and are common to all its citizens: but the rights derived from the Constitution and laws of the States, which may be denominated State rights, in many particulars differ from each

other. Thus, while the Federal rights of the citizens of Massachusetts and Virginia are the same, their State rights are dissimilar and different, slavery being forbidden in one, and permitted in the other State. This difference arises out of the Constitutions and laws of the two States, in the same manner as the difference in the rights of the citizens of these States to vote for representatives in Congress arises out of the State laws and Constitution. In Massachusetts, every person of lawful age, and possessing property of any sort, of the value of two hundred dollars, may vote for representatives to Congress. In Virginia, no person can vote for representatives to Congress, unless he be a freeholder. As the admission of a new State into the Union confers upon its citizens only the rights denominated Federal, and as these are common to the citizens of all the States, as well of those in which slavery is prohibited, as of those in which it is allowed, it follows that the prohibition of slavery in Missouri will not impair the Federal rights of its citizens, and that such prohibition is not sustained by the clause of the treaty which has been cited.[7]

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As all nations do not permit slavery, the

term property, in its common and universal meaning, does not include or describe slaves. In treaties, therefore, between nations, and especially in those of the United States, whenever stipulations respecting slaves were to be made, the word "negroes," or "slaves," have been employed, and the omission of these words in this clause, increases the uncertainty whether, by the term property, slaves were intended to be included. But admitting that such was the intention of the parties, the stipulation is not only temporary, but extends no further than to the property actually possessed by the inhabitants of Missouri, when it was first occupied by the United States. Property since acquired by them, and property acquired or possessed by the new inhabitants of Missouri, has in each case been acquired under the laws of the United States, and not during and under the laws of the province of Louisiana. Should, therefore, the future introduction of slaves into Missouri be forbidden, the feelings of the citizens would soon become reconciled to their exclusion, and the inconsiderable number of slaves owned by the inhabitants at the date of the cession of Louisiana, would be emancipated or sent for sale into States where slavery exists.

It is further objected, that the article of the act of admission into the Union, by which slavery should be excluded from Missouri, would be nugatory, as the new State in virtue of its sovereignty would be at liberty to revoke its consent, and annul the article by which slavery is excluded.

Such revocation would be contrary to the obligations of good faith, which enjoins the observance of our engagements; it would be repugnant to the principles on which government itself is founded; sovereignty in every lawful government is a limited power, and can do only what it is lawful to do. Sovereigns, like individuals, are bound by their engagements, and have no moral power to break them. Treaties between nations repose on this principle. If the new State can revoke and annul an article concluded between itself and the United States, by which slavery is excluded from it, it may revoke and annul any other article of the compact; it may, for example, annul the article respecting public lands, and in virtue of its sovereignty, assume the right to tax and to sell the lands of the United States. There is yet a more satisfactory answer to this objection. The judicial power of the United States is co-

extensive with their legislative power, and every question arising under the Constitution or laws of the United States, is recognizable by the judiciary thereof. Should the new State rescind any of the articles of compact contained in the act of admission into the Union, that, for example, by which slavery is excluded, and should pass a law authorizing slavery, the judiciary of the United States on proper application, would immediately deliver from bondage, any person retained as a slave in said State. And, in like manner, in all instances affecting individuals, the judiciary might be employed to defeat every attempt to violate the Constitution and laws of the United States.

If Congress possess the power to exclude slavery from Missouri, it still remains to be shown that they ought to do so. The examination of this branch of the subject, for obvious reasons, is attended with peculiar difficulty, and cannot be made without passing over arguments which, to some of us, might appear to be decisive, but the use of which, in this place, would call up feelings, the influence of which would disturb, if not defeat, the impartial consideration of the subject.

Slavery, unhappily, exists within the United

States. Enlightened men, in the States where it is permitted, and everywhere out of them, regret its existence among us, and seek for the means of limiting and of mitigating it. The first introduction of slaves is not imputable to the present generation, nor even to their ancestors. Before the year 1642, the trade and ports of the colonies were open to foreigners equally as those of the mother country; and as early as 1620, a few years only after the planting of the colony of Virginia, and the same year in which the first settlement was made in the old colony of Plymouth, a cargo of negroes was brought into and sold as slaves in Virginia by a foreign ship. From this beginning, the importation of slaves was continued for nearly two centuries. To her honor, Virginia, while a colony, opposed the importation of slaves, and was the first State to prohibit the same, by a law passed for this purpose in 1778, thirty years before the general prohibition enacted by Congress in 1808. The laws and customs of the States in which slavery has existed for so long a period, must have had their influence on the opinions and habits of the citizens, which ought not to be disregarded on the present occasion.

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When the general convention that formed the Constitution took this subject into their consideration, the whole question was once more examined; and while it was agreed that all contributions to the common treasury should be made according to the ability of the several States to furnish the same, the old difficulty recurred in agreeing upon a rule whereby such ability should be ascertained, there being no simple standard by which the ability of individuals to pay taxes can be ascertained. A diversity in the selection of taxes has been deemed requisite to their equalization. Between communities this difficulty is less considerable, and although the rule of relative numbers would not accurately measure the relative wealth of nations, in States in the circumstances of the United States, whose institutions, laws, and employments are so much alike, the rule of numbers is probably as near equal as any other simple and practical rule can be expected to be (though between the old and new States its equity is defective),—these considerations, added to the approbation which had already been given to the rule, by a majority of the States, induced the convention to agree that direct taxes should be apportioned among the

States, according to the whole number of free persons, and three-fifths of the slaves which they might respectively contain.

The rule for apportionment of taxes is not necessarily the most equitable rule for the apportionment of representatives among the States; property must not be disregarded in the composition of the first rule, but frequently is overlooked in the establishment of the second. A rule which might be approved in respect to taxes, would be disapproved in respect to representatives; one individual possessing twice as much property as another, might be required to pay double the taxes of such other; but no man has two votes to another's one; rich or poor, each has but a single vote in the choice of representatives.

In the dispute between England and the colonies, the latter denied the right of the former to tax them, because they were not represented in the English Parliament. They contended that, according to the law of the land, taxation and representation were inseparable. The rule of taxation being agreed upon by the convention, it is possible that the maxim with which we successfully opposed the claim of England may have had an influence in pro-

curing the adoption of the same rule for the apportionment of representatives; the true meaning, however, of this principle of the English constitution is, that a colony or district is not to be taxed which is not represented; not that its number of representatives shall be ascertained by its quota of taxes. If three-fifths of the slaves are virtually represented, or their owners obtain a disproportionate power in legislation, and in the appointment of the President of the United States, why should not other property be virtually represented, and its owners obtain a like power in legislation, and in the choice of the President? Property is not confined in slaves, but exists in houses, stores, ships, capital in trade, and manufactures. To secure to the owners of property in slaves greater political power than is allowed to the owners of other and equivalent property, seems to be contrary to our theory of the equality of personal rights, inasmuch as the citizens of some States thereby become entitled to other and greater political power than the citizens of other States. The present House of Representatives consist of one hundred and eighty-one members, which are apportioned among the States in a ratio of one representative for

every thirty-five thousand federal members, which are ascertained by adding to the whole number of free persons, three-fifths of the slaves. According to the last census, the whole number of slaves within the United was 1,191,364, which entitles the States possessing the same to twenty representatives, and twenty presidential electors more than they would be entitled to, were the slaves excluded. By the last census, Virginia contained 582,104 free persons, and 392,518 slaves. In any of the States where slavery is excluded, 582,104 free persons would be entitled to elect only sixteen representatives, while in Virginia, 582,104 free persons, by the addition of three-fifths of her slaves, become entitled to elect, and do in fact elect, twenty-three representatives, being seven additional ones on account of her slaves. Thus, while 35,000 free persons are requisite to elect one representative in a State where slavery is prohibited, 25,559 free persons in Virginia may and do elect a representative: so that five free persons in Virginia have as much power in the choice of Representatives to Congress, and in the appointment of presidential electors, as seven free persons in any of the States in which slavery does not exist.

This inequality in the apportionment of representatives was not misunderstood at the adoption of the Constitution, but no one anticipated the fact that the whole of the revenue of the United States would be derived from indirect taxes (which cannot be supposed to spread themselves over the several States according to the rule for the apportionment of direct taxes), but it was believed that a part of the contribution to the common treasury would be apportioned among the States by the rule for the apportionment of representatives. The States in which slavery is prohibited, ultimately, though with reluctance, acquiesced in the disproportionate number of representatives and electors that was secured to the slaveholding States. The concession was, at the time, believed to be a great one, and has proved to have been the greatest which was made to secure the adoption of the Constitution.

Great, however, as this concession was, it was definite, and its full extent was comprehended. It was a settlement between the original thirteen States. The considerations arising out of their actual condition, their past connection, and the obligation which all felt to promote a reformation in the Federal Government, were

peculiar to the time and to the parties, and are not applicable to the new States, which Congress may now be willing to admit into the Union.

The equality of rights, which includes an equality of burdens, is a vital principle in our theory of government, and its jealous preservation is the best security of public and individual freedom; the departure from this principle in the disproportionate power and influence, allowed to the slaveholding States, was a necessary sacrifice to the establishment of the Constitution. The effect of this concession has been obvious in the preponderance which it has given to the slaveholding States over the other States. Nevertheless, it is an ancient settlement, and faith and honor stand pledged not to disturb it. But the extension of this disproportionate power to the new States would be unjust and odious. The States whose power would be abridged, and whose burdens would be increased by the measure, cannot be expected to consent to it, and we may hope that the other States are too magnanimous to insist on it.

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It ought not to be forgotten that the first

and main object of the negotiation which led to the acquisition of Louisiana, was the free navigation of the Mississippi, a river that forms the sole passage from the western States to the ocean. This navigation, although of general benefit, has been always valued and desired, as of peculiar advantage to the Western States, whose demands to obtain it were neither equivocal nor unreasonable. But with the river Mississippi, by a sort of coercion, we acquired, by good or ill fortune, as our future measures shall determine, the whole province of Louisiana. As this acquisition was made at the common expense, it is very fairly urged that the advantages to be derived from it should also be common. This, it is said, will not happen if slavery be excluded from Missouri, as the citizens of the States where slavery is permitted will be shut out, and none but citizens of States where slavery is prohibited, can become inhabitants of Missouri.

But this consequence will not arise from the proposed exclusion of slavery. The citizens of States in which slavery is allowed, like all other citizens, will be free to become inhabitants of Missouri, in like manner as they have become inhabitants of Ohio, Indiana, and Illinois, in

which slavery is forbidden. The exclusion of slaves from Missouri will not, therefore, operate unequally among the citizens of the United States. The Constitution provides, "that the citizens of each State shall be entitled to enjoy all the rights and immunities of citizens of the several States"; every citizen may, therefore, remove from one to another State, and there enjoy the rights and immunities of its citizens. The proposed provision excludes slaves, not citizens, whose rights it will not, and cannot impair.

Besides there is nothing new or peculiar in a provision for the exclusion of slavery; it has been established in the States northwest of the river Ohio, and has existed from the beginning in the old States where slavery is forbidden. The citizens of States where slavery is allowed, may become inhabitants of Missouri, but cannot hold slaves there, nor in any other State where slavery is prohibited. As well might the laws prohibiting slavery in the old States become the subject of complaint, as the proposed exclusion of slavery in Missouri; but there is no foundation for such complaint in either case. It is further urged, that the admission of slaves into Missouri would be limited to the slaves who are

already within the United States ; that their health and comfort would be promoted by their dispersion, and that their numbers would be the same whether they remain confined to the States where slavery exists, or are dispersed over the new States that may be admitted into the Union.[10]

That none but domestic slaves would be introduced into Missouri, and the other new and frontier States, is most fully disproved by the thousands of fresh slaves, which, in violation of our laws, are annually imported into Alabama, Louisiana, and Mississippi.

We may renew our efforts, and enact new laws with heavier penalties against the importation of slaves : the revenue cutters may more diligently watch our shores, and the naval force may be employed on the coast of Africa, and on the ocean, to break up the slave trade—but these means will not put an end to it ; so long as markets are open for the purchase of slaves, so long they will be supplied ;—and so long as we permit the existence of slavery in our new and frontier States, so long slave markets will exist. The plea of humanity is equally inadmissible, since no one who has ever witnessed the experiment will believe that the condition

of slaves is made better by the breaking up, and separation of their families, nor by their removal from the old States to the new ones; and the objection to the provision of the bill, excluding slavery from Missouri, is equally applicable to the like prohibitions of the old States: these should be revoked, in order that the slaves now confined to certain States, may, for their health and comfort, and multiplication, be spread over the whole Union.[11]

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Slavery cannot exist in Missouri without the consent of Congress; the question may therefore be considered, in certain lights, as a new one, it being the first instance in which an inquiry respecting slavery, in a case so free from the influence of the ancient laws, usages, and manners of the country, has come before the Senate.

The territory of Missouri is beyond our ancient limits, and the inquiry whether slavery shall exist there, is open to many of the arguments that might be employed, had slavery never existed within the United States. It is a question of no ordinary importance. Freedom and slavery are the parties which stand this day before the Senate; and upon its de-

cision the empire of the one or the other will be established in the new State which we are about to admit into the Union.

If slavery be permitted in Missouri with the climate, and soil, and in the circumstances of this territory, what hope can be entertained that it will ever be prohibited in any of the new States that will be formed in the immense region west of the Mississippi? Will the co-extensive establishment of slavery and of the new States throughout this region, lessen the dangers of domestic insurrection, or of foreign aggression? Will this manner of executing the great trust of admitting new States into the Union, contribute to assimilate our manners and usages, to increase our mutual affection and confidence, and to establish that equality of benefits and burdens which constitutes the true basis of our strength and union? Will the militia of the nation, which must furnish our soldiers and seamen, increase as slaves increase? Will the actual disproportion in the military service of the nation be thereby diminished? —a disproportion that will be, as it has been, readily borne, as between the original States, because it arises out of their compact of Union, but which may become a badge of inferiority,

if required for the protection of those who, being free to choose, persist in the establishment of maxims, the inevitable effect of which will deprive them of the power to contribute to the common defence, and even of the ability to protect themselves. There are limits within which our federal system must stop; no one has supposed that it could be indefinitely extended—we are now about to pass our original boundary; if this can be done without affecting the principles of our free governments, it can be accomplished only by the most vigilant attention to plant, cherish, and sustain the principles of liberty in the new States, that may be formed beyond our ancient limits; with our utmost caution in this respect, it may still be justly apprehended that the General Government must be made stronger as we become more extended.

But if, instead of freedom, slavery is to prevail and spread, as we extend our dominion, can any reflecting man fail to see the necessity of giving to the General Government greater powers, to enable it to afford the protection that will be demanded of it? powers that will be difficult to control, and which may prove fatal to the public liberties.[12]

WILLIAM PINKNEY,*

OF MARYLAND.[1]

(BORN 1764, DIED 1822.)

ON THE MISSOURI QUESTION[2]—UNITED STATES SENATE, FEBRUARY 15, 1820.

As I am not a very frequent speaker in this assembly, and have shown a desire, I trust, rather to listen to the wisdom of others than to lay claim to superior knowledge by undertaking to advise, even when advice, by being seasonable in point of time, might have some chance of being profitable, you will, perhaps, bear with me if I venture to trouble you once more on that eternal subject which has lingered here, until all its natural interest is exhausted, and every topic connected with it is literally worn to tatters. I shall, I assure you, sir, speak with laudable brevity—not merely on account of the feeble state of my health, and

* For notes on Pinkney, see Appendix, p. 357.

from some reverence for the laws of good taste which forbid me to speak otherwise, but also from a sense of justice to those who honor me with their attention. My single purpose, as I suggested yesterday, is to subject to a friendly, yet close examination, some portions of a speech, imposing, certainly, on account of the distinguished quarter from whence it came—not very imposing (if I may so say, without departing from that respect which I sincerely feel and intend to manifest for eminent abilities and long experience) for any other reason.[3]

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I confess to you, nevertheless, that some of the principles announced by the honorable gentleman from New York, with an explicitness that reflected the highest credit on his candor, did, when they were first presented, startle me not a little. They were not perhaps entirely new. Perhaps I had seen them before in some shadowy and doubtful shape,

> "If shape it might be called, that shape had none,
> Distinguishable in member, joint, or limb."

But in the honorable gentleman's speech they were shadowy and doubtful no longer. He exhibited them in forms so boldly and accurately

defined—with contours so distinctly traced—with features so pronounced and striking that I was unconscious for a moment that they might be old acquaintances. I received them as a *novi hospites* within these walls, and gazed upon them with astonishment and alarm. I have recovered, however, thank God, from this paroxysm of terror, although not from that of astonishment. I have sought and found tranquillity and courage in my former consolatory faith. My reliance is that these principles will obtain no general currency; for, if they should, it requires no gloomy imagination to sadden the perspective of the future. My reliance is upon the unsophisticated good sense and noble spirit of the American people. I have what I may be allowed to call a proud and patriotic trust, that they will give countenance to no principles which, if followed out to their obvious consequences, will not only shake the goodly fabric of the Union to its foundations, but reduce it to a melancholy ruin. The people of this country, if I do not wholly mistake their character, are wise as well as virtuous. They know the value of that federal association which is to them the single pledge and guarantee of power and peace. Their

warm and pious affections will cling to it as to their only hope of prosperity and happiness, in defiance of pernicious abstractions, by whomsoever inculcated, or howsoever seductive or alluring in their aspect.[4]

* * * * * * *

Sir, it was but the other day that we were forbidden, (properly forbidden I am sure, for the prohibition came from you,)[5] to assume that there existed any intention to impose a prospective restraint on the domestic legislation of Missouri—a restraint to act upon it contemporaneously with its origin as a State, and to continue adhesive to it through all the stages of its political existence. We are now, however, permitted to know that it is determined by a sort of political surgery to amputate one of the limbs of its local sovereignty, and thus mangled and disparaged, and thus only, to receive it into the bosom of the Constitution. It is now avowed that, while Maine is to be ushered into the Union with every possible demonstration of studious reverence on our part, and on hers, with colors flying, and all the other graceful accompaniments of honorable triumph, this ill-conditioned upstart of the West, this obscure foundling of a wilderness

that was but yesterday the hunting-ground of the savage, is to find her way into the American family as she can, with an humiliating badge of remediless inferiority patched upon her garments, with the mark of recent, qualified manumission upon her, or rather with a brand upon her forehead to tell the story of her territorial vassalage, and to perpetuate the memory of her evil propensities. It is now avowed that, while the robust district of Maine is to be seated by the side of her truly respectable parent, co-ordinate in authority and honor, and is to be dandled into that power and dignity of which she does not stand in need, but which undoubtedly she deserves, the more infantine and feeble Missouri is to be repelled with harshness, and forbidden to come at all, unless with the iron collar of servitude about her neck, instead of the civic crown of republican freedom upon her brows, and is to be doomed forever to leading-strings, unless she will exchange those leading-strings for shackles.

I am told that you have the power to establish this odious and revolting distinction, and I am referred for the proofs of that power to various parts of the Constitution, but principally to that part of it which authorizes the

admission of new States into the Union. I am myself of opinion that it is in that part only that the advocates for this restriction can, with any hope of success, apply for a license to impose it; and that the efforts which have been made to find it in other portions of that instrument, are too desperate to require to be encountered. I shall, however, examine those other portions before I have done, lest it should be supposed by those who have relied upon them, that what I omit to answer I believe to be unanswerable.

The clause of the Constitution which relates to the admission of new States is in these words: "The Congress may admit new States into this Union," etc., and the advocates for restriction maintain that the use of the word "may" imports discretion to admit or to reject; and that in this discretion is wrapped up another—that of prescribing the terms and conditions of admission in case you are willing to admit: "Cujus est dare ejus est disponere."[6] I will not for the present inquire whether this involved discretion to dictate the terms of admission belongs to you or not. It is fit that I should first look to the nature and extent of it.

I think I may assume that if such a power be anything but nominal, it is much more than adequate to the present object—that it is a power of vast expansion, to which human sagacity can assign no reasonable limits—that it is a capacious reservoir of authority, from which you may take, in all time to come, as occasion may serve, the means of oppression as well as of benefaction. I know that it professes at this moment to be the chosen instrument of protecting mercy, and would win upon us by its benignant smiles; but I know, too, it can frown and play the tyrant, if it be so disposed. Notwithstanding the softness which it now assumes, and the care with which it conceals its giant proportions beneath the deceitful drapery of sentiment, when it next appears before you it may show itself with a sterner countenance and in more awful dimensions. It is, to speak the truth, sir, a power of colossal size—if indeed it be not an abuse of language to call it by the gentle name of a power. Sir, it is a wilderness of power, of which fancy in her happiest mood is unable to perceive the far distant and shadowy boundary. Armed with such a power, with religion in one hand and philanthropy in the other, and followed with a goodly

train of public and private virtues, you may achieve more conquests over sovereignties not your own than falls to the common lot of even uncommon ambition. By the aid of such a power, skilfully employed, you may "bridge your way" over the Hellespont that separates State legislation from that of Congress; and you may do so for pretty much the same purpose with which Xerxes once bridged his way across the Hellespont that separates Asia from Europe. He did so, in the language of Milton, "the liberties of Greece to yoke." You may do so for the analogous purpose of subjugating and reducing the sovereignties of States, as your taste or convenience may suggest, and fashioning them to your imperial will. There are those in this House who appear to think, and I doubt not sincerely, that the particular restraint now under consideration is wise, and benevolent, and good; wise as respects the Union—good as respects Missouri—benevolent as respects the unhappy victims whom with a novel kindness it would incarcerate in the south, and bless by decay and extirpation. Let all such beware, lest in their desire for the effect which they believe the restriction will produce, they are too easily satisfied that they have the

right to impose it. The moral beauty of the present purpose, or even its political recommendations (whatever they may be), can do nothing for a power like this, which claims to prescribe conditions *ad libitum*, and to be competent to this purpose, because it is competent to all. This restriction, if it be not smothered in its birth, will be but a small part of the progeny of the prolific power. It teems with a mighty brood, of which this may be entitled to the distinction of comeliness as well as of primogeniture. The rest may want the boasted loveliness of their predecessor, and be even uglier than "Lapland [7] witches."

* * * * * * *[8]

I would not discourage authorized legislation upon those kindly, generous, and noble feelings which Providence has given to us for the best of purposes; but when power to act is under discussion, I will not look to the end in view, lest I should become indifferent to the lawfulness of the means. Let us discard from this high constitutional question all those extrinsic considerations which have been forced into its discussion. Let us endeavor to approach it with a philosophic impartiality of temper—with a sincere desire to ascertain the boundaries of

our authority, and a determination to keep our wishes in subjection to our allegiance to the Constitution.

Slavery, we are told in many a pamphlet, memorial, and speech, with which the press has lately groaned, is a foul blot upon our otherwise immaculate reputation. Let this be conceded—yet you are no nearer than before to the conclusion that you possess power which may deal with other subjects as effectually as with this. Slavery, we are further told, with some pomp of metaphor, is a canker at the root of all that is excellent in this republican empire, a pestilent disease that is snatching the youthful bloom from its cheek, prostrating its honor and withering its strength. Be it so—yet if you have power to medicine [9] to it in the way proposed, and in virtue of the diploma which you claim, you have also power in the distribution of your political alexipharmics to present the deadliest drugs to every territory that would become a State, and bid it drink or remain a colony forever. Slavery, we are also told, is now "rolling onward with a rapid tide towards the boundless regions of the West," threatening to doom them to sterility and sorrow, unless some potent voice can say to it,

thus far shalt thou go, and no farther. Slavery engenders pride and indolence in him who commands, and inflicts intellectual and moral degradation on him who serves. Slavery, in fine, is unchristian and abominable. Sir, I shall not stop to deny that slavery is all this and more; but I shall not think myself the less authorized to deny that it is for you to stay the course of this dark torrent, by opposing to it a mound raised up by the labors of this portentous discretion on the domain of others—a mound which you cannot erect but through the instrumentality of a trespass of no ordinary kind—not the comparatively innocent trespass that beats down a few blades of grass which the first kind sun or the next refreshing shower may cause to spring again—but that which levels with the ground the lordliest trees of the forest, and claims immortality for the destruction which it inflicts.

I shall not, I am sure, be told that I exaggerate this power. It has been admitted here and elsewhere that I do not. But I want no such concession. It is manifest that as a discretionary power it is everything or nothing—that its head is in the clouds, or that it is a mere figment of enthusiastic speculation—that it has no existence, or that it is an alarming vortex ready

to swallow up all such portions of the sovereignty of an infant State as you may think fit to cast into it as preparatory to the introduction into the union of the miserable residue. No man can contradict me when I say, that if you have this power, you may squeeze down a newborn sovereign State to the size of a pigmy, and then taking it between finger and thumb, stick it into some niche of the Union, and still continue by way of mockery to call it a State in the sense of the Constitution. You may waste it to a shadow, and then introduce it into the society of flesh and blood an object of scorn and derision. You may sweat and reduce it to a thing of skin and bone, and then place the ominous skeleton beside the ruddy and healthful members of the Union, that it may have leisure to mourn the lamentable difference between itself and its companions, to brood over its disastrous promotion, and to seek in justifiable discontent an opportunity for separation, and insurrection, and rebellion. What may you not do by dexterity and perseverance with this terrific power? You may give to a new State, in the form of terms which it cannot refuse, (as I shall show you hereafter,) a statute book of a thousand volumes—providing not for ordinary cases only,

but even for possibilities; you may lay the yoke, no matter whether light or heavy, upon the necks of the latest posterity; you may send this searching power into every hamlet for centuries to come, by laws enacted in the spirit of prophecy, and regulating all those dear relations of domestic concern which belong to local legislation, and which even local legislation touches with a delicate and sparing hand. This is the first inroad. But will it be the last? This provision is but a pioneer for others of a more desolating aspect. It is that fatal bridge of which Milton speaks, and when once firmly built, what shall hinder you to pass it when you please for the purpose of plundering power after power at the expense of new States, as you will still continue to call them, and raising up prospective codes irrevocable and immortal, which shall leave to those States the empty shadows of domestic sovereignty, and convert them into petty pageants, in themselves contemptible, but rendered infinitely more so by the contrast of their humble faculties with the proud and admitted pretensions of those who having doomed them to the inferiority of vassals, have condescended to take them into their society and under their protection? [10]

"New States may be admitted by the Congress into this Union." It is objected that the word "may" imports power, not obligation—a right to decide—a discretion to grant or refuse.

To this it might be answered that power is duty on many occasions. But let it be conceded that it is discretionary. What consequence follows? A power to refuse, in a case like this, does not necessarily involve a power to exact terms. You must look to the result which is the declared object of the power. Whether you will arrive at it, or not, may depend on your will; but you cannot compromise with the result intended and professed.

What then is the professed result? To admit a State into this Union.

What is that Union? A confederation of States equal in sovereignty—capable of everything which the Constitution does not forbid, or authorize Congress to forbid. It is an equal union, between parties equally sovereign. They were sovereign independently of the Union. The object of the Union was common protection for the exercise of already existing sovereignty. The parties gave up a portion of that sovereignty to insure the remainder. As far as they gave it up by the common compact they

have ceased to be sovereign. The Union provides the means of defending the residue; and it is into that Union that a new State is to come. By acceding to it, the new State is placed on the same footing with the original States. It accedes for the same purpose, *i. e.*, protection for their unsurrendered sovereignty. If it comes in shorn of its beams—crippled and disparaged beyond the original States, it is not into the original Union that it comes. For it is a different sort of Union. The first was Union *inter pares*. This is a Union between "disparates"—between giants and a dwarf—between power and feebleness—between full proportioned sovereignties and a miserable image of power—a thing which that very Union has shrunk and shrivelled from its just size, instead of preserving it in its true dimensions.

It is into this Union, *i. e.*, the Union of the Federal Constitution, that you are to admit, or refuse to admit. You can admit into no other. You cannot make the Union, as to the new State, what it is not as to the old; for then it is not this Union that you open for the entrance of a new party. If you make it enter into a new and additional compact, is it any longer the same Union? [11]

We are told that admitting a State into the Union is a compact. Yes, but what sort of a compact? A compact that it shall be a member of the Union, as the Constitution has made it. You cannot new fashion it. You may make a compact to admit, but when admitted the original compact prevails. The Union is a compact, with a provision of political power and agents for the accomplishment of its objects. Vary that compact as to a new State—give new energy to that political power so as to make it act with more force upon a new State than upon the old—make the will of those agents more effectually the arbiter of the fate of a new State than of the old, and it may be confidently said that the new State has not entered into this Union, but into another Union. How far the Union has been varied is another question. But that it has been varied is clear.

If I am told that by the bill relative to Missouri, you do not legislate upon a new State, I answer that you do; and I answer further that it is immaterial whether you do or not. But it is upon Missouri, as a State, that your terms and conditions are to act. Until Missouri is a State, the terms and conditions are nothing. You legislate in the shape of terms and condi-

tions, prospectively—and you so legislate upon it that when it comes into the Union it is to be bound by a contract degrading and diminishing its sovereignty—and is to be stripped of rights which the original parties to the Union did not consent to abandon, and which that Union (so far as depends upon it) takes under its protection and guarantee.

Is the right to hold slaves a right which Massachusetts enjoys? If it is, Massachusetts is under this Union in a different character from Missouri. The compact of Union for it, is different from the same compact of Union for Missouri. The power of Congress is different—everything which depends upon the Union is, in that respect, different.

But it is immaterial whether you legislate for Missouri as a State or not. The effect of your legislation is to bring it into the Union with a portion of its sovereignty taken away.

But it is a State which you are to admit. What is a State in the sense of the Constitution? It is not a State in the general—but a State as you find it in the Constitution. A State, generally, is a body politic or independent political society of men. But the State which you are to admit must be more or less than this

political entity. What must it be? Ask the constitution. It shows what it means by a State by reference to the parties to it. It must be such a State as Massachusetts, Virginia, and the other members of the American confederacy—a State with full sovereignty except as the constitution restricts it.

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In a word, the whole amount of the argument on the other side is, that you may refuse to admit a new State, and that therefore if you admit, you may prescribe the terms.

The answer to that argument is—that even if you can refuse, you can prescribe no terms which are inconsistent with the act you are to do. You can prescribe no conditions which, if carried into effect, would make the new State less a sovereign State than, under the Union as it stands, it would be. You can prescribe no terms which will make the compact of Union between it and the original States essentially different from that compact among the original States. You may admit, or refuse to admit: but if you admit, you must admit a State in the sense of the Constitution—a State with all such sovereignty as belongs to the original parties: and it must be into this Union that

you are to admit it, not into a Union of your own dictating, formed out of the existing Union by qualifications and new compacts, altering its character and effect, and making it fall short of its protecting energy in reference to the new State, whilst it acquires an energy of another sort—the energy of restraint and destruction.

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One of the most signal errors with which the argument on the other side has abounded, is this of considering the proposed restriction as if levelled at the introduction or establishment of slavery. And hence the vehement declamation, which, among other things, has informed us that slavery originated in fraud or violence.

The truth is, that the restriction has no relation, real or pretended, to the right of making slaves of those who are free, or of introducing slavery where it does not already exist. It applies to those who are admitted to be already slaves, and who (with their posterity) would continue to be slaves if they should remain where they are at present; and to a place where slavery already exists by the local law. Their civil condition will not be altered by their removal from Virginia, or Carolina, to Missouri. They will not be more slaves than they now

are. Their abode, indeed, will be different, but their bondage the same. Their numbers may possibly be augmented by the diffusion, and I think they will. But this can only happen because their hardships will be mitigated, and their comforts increased. The checks to population, which exist in the older States, will be diminished. The restriction, therefore does not prevent the establishment of slavery, either with reference to persons or place; but simply inhibits the removal from place to place (the law in each being the same) of a slave, or make his emancipation the consequence of that removal. It acts professedly merely on slavery as it exists, and thus acting restrains its present lawful effects. That slavery, like many other human institutions, originated in fraud or violence, may be conceded: but, however it originated, it is established among us, and no man seeks a further establishment of it by new importations of freemen to be converted into slaves. On the contrary, all are anxious to mitigate its evils, by all the means within the reach of the appropriate authority, the domestic legislatures of the different States.

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Of the declaration of our independence, which

has also been quoted in support of the perilous doctrines now urged upon us, I need not now speak at large. I have shown on a former occasion how idle it is to rely upon that instrument for such a purpose, and I will not fatigue you by mere repetition. The self-evident truths announced in the Declaration of Independence are not truths at all, if taken literally; and the practical conclusions contained in the same passage of that declaration prove that they were never designed to be so received.

The articles of confederation contain nothing on the subject; whilst the actual Constitution recognizes the legal existence of slavery by various provisions. The power of prohibiting the slave trade is involved in that of regulating commerce, but this is coupled with an express inhibition to the exercise of it for twenty years. How then can that Constitution which expressly permits the importation of slaves authorize the National Government to set on foot a crusade against slavery?

The clause respecting fugitive slaves is affirmative and active in its effects. It is a direct sanction and positive protection of the right of the master to the services of his slave as derived under the local laws of the States.

The phraseology in which it is wrapped up still leaves the intention clear, and the words, "persons held to service or labor in one State under the laws thereof," have always been interpreted to extend to the case of slaves, in the various acts of Congress which have been passed to give efficacy to the provision, and in the judicial application of those laws. So also in the clause prescribing the ratio of representation—the phrase, "three-fifths of all other persons," is equivalent to slaves, or it means nothing. And yet we are told that those who are acting under a Constitution which sanctions the existence of slavery in those States which choose to tolerate it, are at liberty to hold that no law can sanction its existence."

It is idle to make the rightfulness of an act the measure of sovereign power. The distinction between sovereign power and the moral right to exercise it has always been recognized. All political power may be abused, but is it to stop where abuse may begin? The power of declaring war is a power of vast capacity for mischief, and capable of inflicting the most wide-spread desolation. But it is given to Congress without stint and without measure. Is a citizen, or are the courts of justice to in-

quire whether that, or any other law, is just, before they obey or execute it? And are there any degrees of injustice which will withdraw from sovereign power the capacity of making a given law?

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The power is "to admit new States into this Union," and it may be safely conceded that here is discretion to admit or refuse. The question is, what must we do if we do anything? What must we admit, and into what? The answer is a State—and into this Union.

The distinction between Federal rights and local rights, is an idle distinction. Because the new State acquires Federal rights, it is not, therefore, in this Union. The Union is a compact; and is it an equal party to that compact, because it has equal Federal rights?

How is the Union formed? By equal contributions of power. Make one member sacrifice more than another, and it becomes unequal. The compact is of two parts:

1. The thing obtained—Federal rights.
2. The price paid—local sovereignty.

You may disturb the balance of the Union, either by diminishing the thing acquired, or increasing the sacrifice paid.

What were the purposes of coming into the Union among the original States? The States were originally sovereign without limit, as to foreign and domestic concerns. But being incapable of protecting themselves singly, they entered into the Union to defend themselves against foreign violence. The domestic concerns of the people were not, in general, to be acted on by it. The security of the power, of managing them by domestic legislature, is one of the great objects of the Union. The Union is a means, not an end. By requiring greater sacrifices of domestic power, the end is sacrificed to the means. Suppose the surrender of all, or nearly all, the domestic powers of legislation were required; the means would there have swallowed up the end.

The argument that the compact may be enforced, shows that the Federal predicament changed. The power of the Union not only acts on persons or citizens, but on the faculty of the government, and restrains it in a way which the Constitution nowhere authorizes. This new obligation takes away a right which is expressly "reserved to the people or the States," since it is nowhere granted to the government of the Union. You cannot do

indirectly what you cannot do directly. It is said that this Union is competent to make compacts. Who doubts it? But can you make this compact? I insist that you cannot make it, because it is repugnant to the thing to be done.

The effect of such a compact would be to produce that inequality in the Union, to which the Constitution, in all its provisions, is adverse. Everything in it looks to equality among the members of the Union. Under it you cannot produce inequality. Nor can you get beforehand of the Constitution, and do it by anticipation. Wait until a State is in the Union, and you cannot do it; yet it is only upon the State in the Union that what you do begins to act.

But it seems that, although the proposed restrictions may not be justified by the clause of the Constitution which gives power to admit new States into the Union, separately considered, there are other parts of the Constitution which, combined with that clause, will warrant it. And first, we are informed that there is a clause in this instrument which declares that Congress shall guarantee to every State a republican form of government; that

slavery and such a form of government are incompatible; and, finally, as a conclusion from these premises, that Congress not only have a right, but are bound to exclude slavery from a new State. Here again, sir, there is an edifying inconsistency between the argument and the measure which it professes to vindicate. By the argument it is maintained that Missouri cannot have a republican form of government, and at the same time tolerate negro slavery. By the measure it is admitted that Missouri may tolerate slavery, as to persons already in bondage there, and be nevertheless fit to be received into the Union. What sort of constitutional mandate is this which can thus be made to bend and truckle and compromise as if it were a simple rule of expediency that might admit of exceptions upon motives of countervailing expediency. There can be no such pliancy in the peremptory provisions of the Constitution. They cannot be obeyed by moieties and violated in the same ratio. They must be followed out to their full extent, or treated with that decent neglect which has at least the merit of forbearing to render contumacy obtrusive by an ostentatious display of the very duty which we in part

abandon. If the decalogue could be observed in this casuistical manner, we might be grievous sinners, and yet be liable to no reproach. We might persist in all our habitual irregularities, and still be spotless. We might, for example, continue to covet our neighbors' goods, provided they were the same neighbors whose goods we had before coveted—and so of all the other commandments.

Will the gentlemen tell us that it is the quantity of slaves, not the quality of slavery, which takes from a government the republican form? Will they tell us (for they have not yet told us) that there are constitutional grounds (to say nothing of common sense) upon which the slavery which now exists in Missouri may be reconciled with a republican form of government, while any addition to the number of its slaves (the quality of slavery remaining the same) from the other States, will be repugnant to that form, and metamorphose it into some nondescript government disowned by the Constitution? They cannot have recourse to the treaty of 1803 for such a distinction, since independently of what I have before observed on that head, the gentlemen have contended that the treaty has nothing to do with the matter.

They have cut themselves off from all chance of a convenient distinction in or out of that treaty, by insisting that slavery beyond the old United States is rejected by the Constitution, and by the law of God as discoverable by the aid of either reason or revelation; and moreover that the treaty does not include the case, and if it did could not make it better. They have, therefore, completely discredited their own theory by their own practice, and left us no theory worthy of being seriously controverted. This peculiarity in reasoning of giving out a universal principle, and coupling with it a practical concession that it is wholly fallacious, has indeed run through the greater part of the arguments on the other side; but it is not, as I think, the more imposing on that account, or the less liable to the criticism which I have here bestowed upon it.

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But let us proceed to take a rapid glance at the reasons which have been assigned for this notion that involuntary servitude and a republican form of government are perfect antipathies. The gentleman from New Hampshire has defined a republican government to be that in which all the men participate in its

power and privileges; from whence it follows that where there are slaves, it can have no existence. A definition is no proof, however, and even if it be dignified (as I think it was) with the name of a maxim, the matter is not much mended. It is Lord Bacon who says "That nothing is so easily made as a maxim"; and certainly a definition is manufactured with equal facility. A political maxim is the work of induction, and cannot stand against experience, or stand on anything but experience. But this maxim, or definition, or whatever else it may be, sets facts at defiance. If you go back to antiquity, you will obtain no countenance for this hypothesis; and if you look at home you will gain still less. I have read that Sparta, and Rome, and Athens, and many others of the ancient family, were republics. They were so in form undoubtedly—the last approaching nearer to a perfect democracy than any other government which has yet been known in the world. Judging of them also by their fruits, they were of the highest order of republics. Sparta could scarcely be any other than a republic, when a Spartan matron could say to her son just marching to battle, "Return victorious, or return no more."

It was the unconquerable spirit of liberty, nurtured by republican habits and institutions, that illustrated the pass of Thermopylæ. Yet slavery was not only tolerated in Sparta, but was established by one of the fundamental laws of Lycurgus, having for its object the encouragement of that very spirit. Attica was full of slaves—yet the love of liberty was its characteristic. What else was it that foiled the whole power of Persia at Marathon and Salamis? What other soil than that which the genial sun of republican freedom illuminated and warmed, could have produced such men as Leonidas and Miltiades, Themistocles and Epaminondas? Of Rome it would be superfluous to speak at large. It is sufficient to name the mighty mistress of the world, before Sylla gave the first stab to her liberties and the great dictator accomplished their final ruin, to be reminded of the practicability of union between civil slavery and an ardent love of liberty cherished by republican establishments.

If we return home for instruction upon this point, we perceive that same union exemplified in many a State, in which "Liberty has a temple in every house, an altar in every heart," while involuntary servitude is seen in every direction.

Is it denied that those States possess a republican form of government? If it is, why does our power of correction sleep? Why is the constitutional guaranty suffered to be inactive? Why am I permitted to fatigue you, as the representative of a slaveholding State, with the discussion of the "nugæ canoræ" (for so I think them) that have been forced into this debate contrary to all the remonstrances of taste and prudence? Do gentlemen perceive the consequences to which their arguments must lead if they are of any value? Do they reflect that they lead to emancipation in the old United States—or to an exclusion of Delaware, Maryland, and all the South, and a great portion of the West from the Union? My honorable friend from Virginia has no business here, if this disorganizing creed be anything but the production of a heated brain. The State to which I belong, must "perform a lustration"—must purge and purify herself from the feculence of civil slavery, and emulate the States of the North in their zeal for throwing down the gloomy idol which we are said to worship, before her senators can have any title to appear in this high assembly. It will be in vain to urge that the old United States are ex-

ceptions to the rule—or rather (as the gentlemen express it), that they have no disposition to apply the rule to them. There can be no exceptions by implication only, to such a rule; and expressions which justify the exemption of the old States by inference, will justify the like exemption of Missouri, unless they point exclusively to them, as I have shown they do not. The guarded manner, too, in which some of the gentlemen have occasionally expressed themselves on this subject, is somewhat alarming. They have no disposition to meddle with slavery in the old United States. Perhaps not—but who shall answer for their successors? Who shall furnish a pledge that the principle once ingrafted into the Constitution, will not grow, and spread, and fructify, and overshadow the whole land? It is the natural office of such a principle to wrestle with slavery, wheresoever it finds it. New States, colonized by the apostles of this principle, will enable it to set on foot a fanatical crusade against all who still continue to tolerate it, although no practicable means are pointed out by which they can get rid of it consistently with their own safety. At any rate, a present forbearing disposition, in a few or in many, is not a security upon which

much reliance can be placed upon a subject as to which so many selfish interests and ardent feelings are connected with the cold calculations of policy. Admitting, however, that the old United States are in no danger from this principle—why is it so? There can be no other answer (which these zealous enemies of slavery can use) than that the Constitution recognizes slavery as existing or capable of existing in those States. The Constitution, then, admits that slavery and a republican form of government are not incongruous. It associates and binds them up together and repudiates this wild imagination which the gentlemen have pressed upon us with such an air of triumph. But the Constitution does more, as I have heretofore proved. It concedes that slavery may exist in a new State, as well as in an old one—since the language in which it recognizes slavery comprehends new States as well as actual. I trust then that I shall be forgiven if I suggest, that no eccentricity in argument can be more trying to human patience, than a formal assertion that a constitution, to which slave-holding States were the most numerous parties, in which slaves are treated as property as well as persons, and provision is made for the security

of that property, and even for an augmentation of it by a temporary importation from Africa, with a clause commanding Congress to guarantee a republican form of government to those very States, as well as to others, authorizes you to determine that slavery and a republican form of government cannot coexist.

But if a republican form of government is that in which all the men have a share in the public power, the slave-holding States will not alone retire from the Union. The constitutions of some of the other States do not sanction universal suffrage, or universal eligibility. They require citizenship, and age, and a certain amount of property, to give a title to vote or to be voted for; and they who have not those qualifications are just as much disfranchised, with regard to the government and its power, as if they were slaves. They have civil rights indeed (and so have slaves in a less degree;) but they have no share in the government. Their province is to obey the laws, not to assist in making them. All such States must therefore be forisfamiliated with Virginia and the rest, or change their system. For the Constitution being absolutely silent on those subjects, will afford them no protection. The Union

might thus be reduced from an Union to an unit. Who does not see that such conclusions flow from false notions—that the true theory of a republican government is mistaken—and that in such a government rights, political and civil, may be qualified by the fundamental law, upon such inducements as the freemen of the country deem sufficient? That civil rights may be qualified as well as political, is proved by a thousand examples. Minors, resident aliens, who are in a course of naturalization—the other sex, whether maids, or wives, or widows, furnish sufficient practical proofs of this.

* * * * * * *[17]

We are next invited to study that clause of the Constitution which relates to the migration or importation, before the year 1808, of such persons as any of the States then existing should think proper to admit. It runs thus: "The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation not exceeding ten dollars for each person."

It is said that this clause empowers Congress, after the year 1808, to prohibit the passage of slaves from State to State, and the word "migration" is relied upon for that purpose.

* * * * * * * [18]

Whatever may be the latitude in which the word "persons" is capable of being received, it is not denied that the word "importation" indicates a bringing in from a jurisdiction foreign to the United States. The two *termini* of the importation, here spoken of, are a foreign country and the American Union—the first the *terminus a quo*, the second the *terminus ad quem*. The word migration stands in simple connexion with it, and of course is left to the full influence of that connection. The natural conclusion is, that the same *termini* belong to each, or, in other words, that if the importation must be abroad, so also must be the migration—no other *termini* being assigned to the one which are not manifestly characteristic of the other. This conclusion is so obvious, that to repel it, the word migration requires, as an appendage, explanatory phraseology, giving to it a different beginning from that of importation. To justify the conclusion that it was intended to mean a removal from State to State,

each within the sphere of the constitution in which it is used, the addition of the words from one to another State in this Union, were indispensable. By the omission of these words, the word "migration" is compelled to take every sense of which it is fairly susceptible from its immediate neighbor, "importation." In this view it means a coming, as "importation" means a bringing, from a foreign jurisdiction into the United States. That it is susceptible of this meaning, nobody doubts. I go further. It can have no other meaning in the place in which it is found. It is found in the Constitution of this Union—which, when it speaks of migration as of a general concern, must be supposed to have in view a migration into the domain which itself embraces as a general government.

Migration, then, even if it comprehends slaves, does not mean the removal of them from State to State, but means the coming of slaves from places beyond their limits and their power. And if this be so, the gentlemen gain nothing for their argument by showing that slaves were the objects of this term.

An honorable gentleman from Rhode Island,[19] whose speech was distinguished for its ability, and for an admirable force of reasoning, as well

as by the moderation and mildness of its spirit, informed us, with less discretion than in general he exhibited, that the word "migration" was introduced into this clause at the instance of some of the Southern States, who wished by its instrumentality to guard against a prohibition by Congress of the passage into those States of slaves from other States. He has given us no authority for this supposition, and it is, therefore, a gratuitous one. How improbable it is, a moment's reflection will convince him. The African slave trade being open during the whole of the time to which the entire clause in question referred, such a purpose could scarcely be entertained; but if it had been entertained, and there was believed to be a necessity for securing it, by a restriction upon the power of Congress to interfere with it, is it possible that they who deemed it important, would have contented themselves with a vague restraint, which was calculated to operate in almost any other manner than that which they desired? If fear and jealousy, such as the honorable gentleman has described, had dictated this provision, a better term than that of "migration," simple and unqualified, and joined, too, with the word "importation," would have

been found to tranquilize those fears and satisfy that jealousy. Fear and jealousy are watchful, and are rarely seen to accept a security short of their object, and less rarely to shape that security, of their own accord, in such a way as to make it no security at all. They always seek an explicit guaranty; and that this is not such a guaranty this debate has proved, if it has proved nothing else.[20]

WENDELL PHILLIPS,*

OF MASSACHUSETTS.[1]

(BORN 1811, DIED 1884.)

ON THE MURDER OF LOVEJOY; FANEUIL HALL, BOSTON, DECEMBER 8, 1837.[2]

MR. CHAIRMAN:

We have met for the freest discussion of these resolutions, and the events which gave rise to them. [Cries of "Question," "Hear him," "Go on," "No gagging," etc.] I hope I shall be permitted to express my surprise at the sentiments of the last speaker, surprise not only at such sentiments from such a man, but at the applause they have received within these walls. A comparison has been drawn between the events of the Revolution and the tragedy at Alton. We have heard it asserted here, in Faneuil Hall, that Great Britain had a right to tax the colonies, and we have heard the mob at Alton, the drunken murderers of Lovejoy, compared to those patriot fathers who threw the

* For notes on Phillips, see Appendix, p. 366

tea overboard! Fellow citizens, is this Faneuil Hall doctrine? ["No, no."] The mob at Alton were met to wrest from a citizen his just rights—met to resist the laws. We have been told that our fathers did the same; and the glorious mantle of Revolutionary precedent has been thrown over the mobs of our day. To make out their title to such defence, the gentleman says that the British Parliament had a *right* to tax these colonies. It is manifest that, without this, his parallel falls to the ground, for Lovejoy had stationed himself within constitutional bulwarks. He was not only defending the freedom of the press, but he was under his own roof, in arms with the sanction of the civil authority.[3] The men who assailed him went against and over the laws. The *mob*, as the gentleman terms it—mob, forsooth! certainly we sons of the tea-spillers are a marvellously patient generation!—the "orderly mob" which assembled in the Old South to destroy the tea, were met to resist, not the laws, but illegal enactions. Shame on the American who calls the tea tax and stamp act *laws!* Our fathers resisted, not the King's prerogative, but the King's usurpation. To find any other account, you must read our Revolutionary history up-

side down. Our State archives are loaded with arguments of John Adams to prove the taxes laid by the British Parliament unconstitutional—beyond its power. It was not until this was made out that the men of New England rushed to arms. The arguments of the Council Chamber and the House of Representatives preceded and sanctioned the contest. To draw the conduct of our ancestors into a precedent for mobs, for a right to resist laws we ourselves have enacted, is an insult to their memory. The difference between the excitements of those days and our own, which the gentleman in kindness to the latter has overlooked, is simply this: the men of that day went for the right, as secured by the laws. They were the people rising to sustain the laws and constitution of the Province. The rioters of our days go for their own wills, right or wrong. Sir, when I heard the gentleman lay down principles which place the murderers of Alton side by side with Otis and Hancock, with Quincy and Adams, I thought those pictured lips [pointing to the portraits in the Hall] would have broken into voice to rebuke the recreant American—the slanderer of the dead. The gentleman said that he should sink

into insignificance if he dared to gainsay the principles of these resolutions. Sir, for the sentiments he has uttered, on soil consecrated by the prayers of Puritans and the blood of patriots, the earth should have yawned and swallowed him up.'

[By this time, the uproar in the Hall had risen so high that the speech was suspended for a short time. Applause and counter applause, cries of "Take that back," "Make him take back recreant," "He sha'n't go on till he takes it back," and counter cries of "Phillips or nobody," continued until the pleadings of well-known citizens had somewhat restored order, when Mr. Phillips resumed.]

Fellow citizens, I cannot take back my words. Surely the Attorney-General, so long and so well known here, needs not the aid of your hisses against one so young as I am—my voice never before heard within these walls! * * * *

I must find some fault with the statement which has been made of the events at Alton. It has been asked why Lovejoy and his friends did not appeal to the executive—trust their defence to the police of the city? It has been hinted that, from hasty and ill-judged excitement, the men within the building provoked a quarrel, and that he fell in the course of it, one mob resisting another. Recollect, sir, that they did act with the approbation and

sanction of the Mayor. In strict truth, there was no executive to appeal to for protection. The Mayor acknowledged that he could not protect them. They asked him if it was lawful for them to defend themselves. He told them it was, and sanctioned their assembling in arms to do so. They were not, then, a mob; they were not merely citizens defending their own property; they were in some sense the *posse comitatus*, adopted for the occasion into the police of the city, acting under the order of a magistrate. It was civil authority resisting lawless violence. Where, then, was the imprudence? Is the doctrine to be sustained here that it is *imprudent* for men to aid magistrates in executing the laws?

Men are continually asking each other, Had Lovejoy a right to resist? Sir, I protest against the question instead of answering it. Lovejoy did not resist, in the sense they mean. He did not throw himself back on the natural right of self-defence. He did not cry anarchy, and let slip the dogs of civil war, careless of the horrors which would follow. Sir, as I understand this affair, it was not an individual protecting his property; it was not one body of armed men resisting another, and making the

streets of a peaceful city run blood with their contentions. It did not bring back the scenes in some old Italian cities, where family met family, and faction met faction, and mutually trampled the laws under foot. No! the men in that house were regularly enrolled, under the sanction of the Mayor. There being no militia in Alton, about seventy men were enrolled with the approbation of the Mayor. These relieved each other every other night. About thirty men were in arms on the night of the sixth, when the press was landed. The next evening, it was not thought necessary to summon more than half that number; among these was Lovejoy. It was, therefore, you perceive, sir, the police of the city resisting rioters—civil government breasting itself to the shock of lawless men.

Here is no question about the right of self-defence. It is in fact simply this: Has the civil magistrate a right to put down a riot?

Some persons seem to imagine that anarchy existed at Alton from the commencement of these disputes. Not at all. "No one of us," says an eyewitness and a comrade of Lovejoy, "has taken up arms during these disturbances but at the command of the Mayor." Anarchy

did not settle down on that devoted city till Lovejoy breathed his last. Till then the law, represented in his person, sustained itself against its foes. When he fell, civil authority was trampled under foot. He had "planted himself on his constitutional rights,"—appealed to the laws,—claimed the protection of the civil authority,—taken refuge under "the broad shield of the Constitution. When through that he was pierced and fell, he fell but one sufferer in a common catastrophe." He took refuge under the banner of liberty—amid its folds; and when he fell, its glorious stars and stripes, the emblem of free institutions, around which cluster so many heart-stirring memories, were blotted out in the martyr's blood.

It has been stated, perhaps inadvertently, that Lovejoy or his comrades fired first. This is denied by those who have the best means of knowing. Guns were first fired by the mob. After being twice fired on, those within the building consulted together and deliberately returned the fire. But suppose they did fire first. They had a right so to do; not only the right which every citizen has to defend himself, but the further right which every civil officer has to resist violence. Even if Lovejoy fired

the first gun, it would not lessen his claim to our sympathy, or destroy his title to be considered a martyr in defence of a free press. The question now is, Did he act within the constitution and the laws? The men who fell in State Street, on the 5th of March, 1770, did more than Lovejoy is charged with.[8] They were the *first* assailants upon some slight quarrel, they pelted the troops with every missile within reach. Did this bate one jot of the eulogy with which Hancock and Warren hallowed their memory, hailing them as the first martyrs in the cause of American liberty? If, sir, I had adopted what are called Peace principles, I might lament the circumstances of this case. But all you who believe as I do, in the right and duty of magistrates to execute the laws, join with me and brand as base hypocrisy the conduct of those who assemble year after year on the 4th of July to fight over the battles of the Revolution, and yet "damn with faint praise" or load with obloquy, the memory of this man who shed his blood in defence of life, liberty, property, and the freedom of the press!

Throughout that terrible night I find nothing to regret but this, that, within the limits of our country, civil authority should have been so pros-

trated as to oblige a citizen to arm in his own defence, and to arm in vain. The gentleman says Lovejoy was presumptuous and imprudent —he "died as the fool dieth." And a reverend clergyman of the city tells us that no citizen has a right to publish opinions disagreeable to the community!' If any mob follows such publication, on *him* rests its guilt. He must wait, forsooth, till the people come up to it and agree with him! This libel on liberty goes on to say that the want of right to speak as we think is an evil inseparable from republican institutions! If this be so, what are they worth? Welcome the despotism of the Sultan, where one knows what he may publish and what he may not, rather than the tyranny of this many-headed monster, the mob, where we know not what we may do or say, till some fellow-citizen has tried it, and paid for the lesson with his life. This clerical absurdity chooses as a check for the abuses of the press, not the *law*, but the dread of a mob. By so doing, it deprives not only the individual and the minority of their rights, but the majority also, since the expression of *their* opinion may sometime provoke disturbances from the minority. A few men may make a mob as well as many. The major-

ity then, have no right, as Christian men, to utter their sentiments, if by any possibility it may lead to a mob! Shades of Hugh Peters and John Cotton, save us from such pulpits![8]

Imprudent to defend the liberty of the press! Why? Because the defence was unsuccessful? Does success gild crime into patriotism, and the want of it change heroic self-devotion to imprudence? Was Hampden imprudent when he drew the sword and threw away the scabbard? Yet he, judged by that single hour, was unsuccessful. After a short exile, the race he hated sat again upon the throne.

Imagine yourself present when the first news of Bunker Hill battle reached a New England town. The tale would have run thus: "The patriots are routed,—the redcoats victorious,—Warren lies dead upon the field." With what scorn would that *Tory* have been received, who should have charged Warren with *imprudence!* who should have said that, bred a physician, he was "out of place" in that battle, and "died as the *fool dieth.*" How would the intimation have been received, that Warren and his associates should have merited a better time? But if success be indeed the only criterion of prudence, *Respice finem*,—wait till the end!

Presumptuous to assert the freedom of the press on American ground! Is the assertion of such freedom before the age? So much before the age as to leave one no right to make it because it displeases the community? Who invents this libel on his country? It is this very thing which entitles Lovejoy to greater praise. The disputed right which provoked the Revolution—taxation without representation—is far beneath that for which he died. [Here there was a general expression of strong disapprobation.] One word, gentlemen. As much as *thought* is better than money, so much is the cause in which Lovejoy died nobler than a mere question of taxes. James Otis thundered in this hall when the King did but touch his *pocket*. Imagine, if you can, his indignant eloquence had England offered to put a gag upon his *lips*. The question that stirred the Revolution touched our civil interests. This concerns us not only as citizens, but as immortal beings. Wrapped up in its fate, saved or lost with it, are not only the voice of the statesman, but the instructions of the pulpit and the progress of our faith.

The clergy, "marvellously out of place" where free speech is battled for—liberty of

speech on national sins! Does the gentleman remember that freedom to preach was first gained, dragging in its train freedom to print? I thank the clergy here present, as I reverence their predecessors, who did not so far forget their country in their immediate profession as to deem it duty to separate themselves from the struggle of '76—the Mayhews and Coopers,[9] who remembered that they were citizens before they were clergymen.

Mr. Chairman, from the bottom of my heart I thank that brave little band at Alton for resisting. We must remember that Lovejoy had fled from city to city,—suffered the destruction of three presses patiently. At length he took counsel with friends, men of character, of tried integrity, of wide views, of Christian principle. They thought the crisis had come; it was full time to assert the laws. They saw around them, not a community like our own, of fixed habits, of character moulded and settled, but one "in the gristle, not yet hardened into the bone of manhood." The people there, children of our older States, seem to have forgotten the blood-tried principles of their fathers the moment they lost sight of our New England hills. Something was to be done to show them the priceless value of the freedom of the press, to

bring back and set right their wandering and confused ideas. He and his advisers looked out on a community, staggering like a drunken man, indifferent to their rights and confused in their feelings. Deaf to argument, haply they might be stunned into sobriety. They saw that of which we cannot judge, the *necessity* of resistance. Insulted law called for it. Public opinion, fast hastening on the downward course, must be arrested.

Does not the event show they judged rightly? Absorbed in a thousand trifles, how has the nation all at once come to a stand? Men begin, as in 1776 and 1640, to discuss principles, to weigh characters, to find out where they are. Haply we may awake before we are borne over the precipice.

I am glad, sir, to see this crowded house, It is good for us to be here. When Liberty is in danger Faneuil Hall has the right, it is her duty, to strike the key-note for these United States. I am glad, for one reason, that remarks such as those to which I have alluded have been uttered here. The passage of these resolutions, in spite of this opposition, led by the Attorney-General of the Commonwealth, will show more clearly, more decisively, the deep indignation with which Boston regards this outrage.[10]

JOHN QUINCY ADAMS,*

OF MASSACHUSETTS.[1]

(BORN 1767, DIED 1848.)

ON THE CONSTITUTIONAL WAR POWER OVER SLAVERY[2]—HOUSE OF REPRESENTATIVES, MAY 25, 1836.

THERE are, then, Mr. Chairman, in the authority of Congress and of the Executive, two classes of powers, altogether different in their nature, and often incompatible with each other—the war power and the peace power. The peace power is limited by regulations and restricted by provisions, prescribed within the constitution itself. The war power is limited only by the laws and usages of nations. The power is tremendous; it is strictly constitutional, but it breaks down every barrier so anxiously erected for the protection of liberty, of property, and

* For notes on Adams, see Appendix, p. 372.

of life. This, sir, is the power which authorizes you to pass the resolution now before you, and, in my opinion, there is no other.

And this, sir, is the reason which I was not permitted to give this morning for voting with only eight associates against the first resolution reported by the committee on the abolition petitions; not one word of discussion had been permitted on either of those resolutions. When called to vote upon the first of them, I asked only five minutes of the time of the House to prove that it was utterly unfounded. It was not the pleasure of the House to grant me those five minutes. Sir, I must say that, in all the proceedings of the House upon that report, from the previous question, moved and inflexibly persisted in by a member of the committee itself which reported the resolutions, (Mr. Owens, of Georgia,) to the refusal of the Speaker, sustained by the majority of the House, to permit the other gentleman from Georgia (Mr. Glascock) to record upon the journal his reasons for asking to be excused from voting on that same resolution, the freedom of debate has been stifled in this House to a degree far beyond any thing that ever happened since the existence of the Constitution of the United States; nor is it

a consolatory reflection to me how intensely we have been made to feel, in the process of that operation, that the Speaker of this House is a slaveholder.[3] And, sir, as I was not then permitted to assign my reasons for voting against that resolution before I gave the vote, I rejoice that the reason for which I shall vote for the resolution now before the committee is identically the same with that for which I voted against that.

[Mr. Adams at this, and at many other passages of this speech, was interrupted by calls to order. The Chairman of the Committee (Mr. A. H. Shepperd, of North Carolina,) in every instance, decided that he was not out of order, but at this passage intimated that he was approaching very close upon its borders; upon which Mr. Adams said, "Then I am to understand, sir, that I am yet within the bounds of order, but that I may transcend them hereafter."]

* * * * * * *[4]

And, now, sir, am I to be disconcerted and silenced, or admonished by the Chair that I am approaching to irrelevant matter, which may warrant him to arrest me in my argument, because I say that the reason for which I shall vote for the resolution now before the commit-

tee, levying a heavy contribution upon the property of my constituents, is identically the same with the reason for which I voted against the resolution reported by the slavery committee, that Congress have no authority to interfere, in any way, with slavery in any of the States of this Union. Sir, I was not allowed to give my reasons for that vote, and a majority of my constituents, perhaps proportionately as large as that of this House in favor of that resolution, may and probably will disapprove my vote against, unless my reasons for so voting should be explained to them. I asked but five minutes of the House to give those reasons, and was refused. I shall, therefore, take the liberty to give them now, as they are strictly applicable to the measure now before the Committee, and are my only justification for voting in favor of this resolution.

I return, then, to my first position, that there are two classes of powers vested by the Constitution of the United States in their Congress and Executive Government: the powers to be exercised in the time of peace, and the powers incidental to war. That the powers of peace are limited by provisions within the body of the Constitution itself, but that the powers of

war are limited and regulated only by the laws and usages of nations. There are, indeed, powers of peace conferred upon Congress, which also come within the scope and jurisdiction of the laws of nations, such as the negotiation of treaties of amity and commerce, the interchange of public ministers and consuls, and all the personal and social intercourse between the individual inhabitants of the United States and foreign nations, and the Indian tribes, which require the interposition of any law. But the powers of war are all regulated by the laws of nations, and are subject to no other limitation. It is by this power that I am justified in voting the money of my constituents for the immediate relief of their fellow-citizens suffering with extreme necessity even for subsistence, by the direct consequence of an Indian war. Upon the same principle, your consuls in foreign ports are authorized to provide for the subsistence of seamen in distress, and even for their passage to their own country.

And it was upon that same principle that I voted against the resolution reported by the slavery committee, "That Congress possess no constitutional authority to interfere, in any way, with the institution of slavery in any of

the States of this confederacy," to which resolution most of those with whom I usually concur, and even my own colleagues in this House, gave their assent.[5] I do not admit that there is even among the peace powers of Congress no such authority; but in war there are many ways by which Congress not only have the authority, but are bound to interfere with the institution of slavery in the States. The existing law prohibiting the importation of slaves into the United States from foreign countries, is itself an interference with the institution of slavery in the States. It was so considered by the founders of the Constitution of the United States, in which it was stipulated that Congress should not interfere, in that way, with the institution, prior to the year 1808.

During the late war with Great Britain the military and naval commanders of that nation issued proclamations inviting the slaves to repair to their standards, with promises of freedom and of settlement in some of the British colonial establishments. This, surely, was an interference with the institution of slavery in the States. By the treaty of peace, Great Britain stipulated to evacuate all the forts and places in the United States, without carrying

away any slaves. If the Government of the United States had no authority to interfere, in any way, with the institution of slavery in the States, they would not have had the authority to require this stipulation. It is well known that this engagement was not fulfilled by the British naval and military commanders; that, on the contrary, they did carry away all the slaves whom they had induced to join them, and that the British Government inflexibly refused to restore any of them to their masters; that a claim of indemnity was consequently instituted in behalf of the owners of the slaves, and was successfully maintained. All that series of transactions was an interference by Congress with the institution of slavery in the States in one way—in the way of protection and support. It was by the institution of slavery alone that the restitution of slaves enticed by proclamations into the British service could be claimed as property. But for the institution of slavery, the British commanders could neither have allured them to their standard, nor restored them otherwise than as liberated prisoners of war. But for the institution of slavery, there could have been no stipulation that they should not be carried away as

property, nor any claim of indemnity for the violation of that engagement.

But the war power of Congress over the institution of slavery in the States is yet far more extensive. Suppose the case of a servile war, complicated, as to some extent it is even now, with an Indian war; suppose Congress were called to raise armies, to supply money from the whole Union, to suppress a servile insurrection: would they have no authority to interfere with the institution of slavery? The issue of a servile war may be disastrous. By war the slave may emancipate himself; it may become necessary for the master to recognize his emancipation by a treaty of peace; can it for an instant be pretended that Congress, in such a contingency, would have no authority to interfere with the institution of slavery, in any way, in the States? Why, it would be equivalent to saying that Congress have no constitutional authority to make peace.[6]

JOHN C. CALHOUN,*

OF SOUTH CAROLINA.[1]

(BORN 1782, DIED 1850.)

ON THE SLAVERY QUESTION, SENATE, MARCH 4, 1850.[2]

I HAVE, Senators, believed from the first that the agitation of the subject of slavery would, if not prevented by some timely and effective measure, end in disunion. Entertaining this opinion, I have, on all proper occasions, endeavored to call the attention of both the two great parties which divide the country to adopt some measure to prevent so great a disaster, but without success. The agitation has been permitted to proceed, with almost no attempt to resist it, until it has reached a point when it can no longer be disguised or denied that the Union is in danger. You have thus had forced upon you the greatest and the gravest question that can ever come under your consideration: How can the Union be preserved?

* For notes on Calhoun, see Appendix, p. 376.

To give a satisfactory answer to this mighty question, it is indispensable to have an accurate and thorough knowledge of the nature and the character of the cause by which the Union is endangered. Without such knowledge it is impossible to pronounce, with any certainty, by what measure it can be saved; just as it would be impossible for a physician to pronounce, in the case of some dangerous disease, with any certainty, by what remedy the patient could be saved, without similar knowledge of the nature and character of the cause which produced it. The first question, then, presented for consideration, in the investigation I propose to make, in order to obtain such knowledge, is: What is it that has endangered the Union?

To this question there can be but one answer: That the immediate cause is the almost universal discontent which pervades all the States composing the southern section of the Union. This widely-extended discontent is not of recent origin. It commenced with the agitation of the slavery question, and has been increasing ever since. The next question, going one step further back, is: What has caused this widely-diffused and almost universal discontent?

It is a great mistake to suppose, as is by some, that it originated with demagogues, who excited the discontent with the intention of aiding their personal advancement, or with the disappointed ambition of certain politicians, who resorted to it as a means of retrieving their fortunes. On the contrary, all the great political influences of the section were arrayed against excitement, and exerted to the utmost to keep the people quiet. The great mass of the people of the South were divided, as in the other section, into Whigs and Democrats. The leaders and the presses of both parties in the South were very solicitous to prevent excitement and to preserve quiet; because it was seen that the effects of the former would necessarily tend to weaken, if not destroy, the political ties which united them with their respective parties in the other section. Those who know the strength of the party ties will readily appreciate the immense force which this cause exerted against agitation, and in favor of preserving quiet. But, great as it was, it was not sufficient to prevent the wide-spread discontent which now pervades the section. No; some cause, far deeper and more powerful than the one supposed, must exist, to account for dis-

content so wide and deep. The question then recurs: What is the cause of this discontent? It will be found in the belief of the people of the Southern States, as prevalent as the discontent itself, that they cannot remain, as things now are, consistently with honor and safety, in the Union. The next question to be considered is: What has caused this belief?

One of the causes is, undoubtedly, to be traced to the long-continued agitation of the slavery question on the part of the North, and the many aggressions which they have made on the rights of the South during the time. I will not enumerate them at present, as it will be done hereafter in its proper place.

There is another lying back of it—with which this is intimately connected—that may be regarded as the great and primary cause. This is to be found in the fact, that the equilibrium between the two sections, in the Government as it stood when the Constitution was ratified and the Government put in action, has been destroyed. At that time there was nearly a perfect equilibrium between the two, which afforded ample means to each to protect itself against the aggression of the other; but, as it now stands, one section has the exclusive power of controlling

the Government, which leaves the other without any adequate means of protecting itself against its encroachment and oppression. To place this subject distinctly before you, I have, Senators, prepared a brief statistical statement, showing the relative weight of the two sections in the Government under the first census of 1790, and the last census of 1840.

According to the former, the population of the United States, including Vermont, Kentucky, and Tennessee, which then were in their incipient condition of becoming States, but were not actually admitted, amounted to 3,929,827. Of this number the Northern States had 1,997,899, and the Southern 1,952,072, making a difference of only 45,827 in favor of the former States.

The number of States, including Vermont, Kentucky, and Tennessee, were sixteen; of which eight, including Vermont, belonged to the northern section, and eight, including Kentucky and Tennessee, to the southern,—making an equal division of the States between the two sections, under the first census. There was a small preponderance in the House of Representatives, and in the Electoral College, in favor of the northern, owing to the fact that, accord-

ing to the provisions of the Constitution, in estimating federal numbers five slaves count but three; but it was too small to affect sensibly the perfect equilibrium which, with that exception, existed at the time. Such was the equality of the two sections when the States composing them agreed to enter into a Federal Union. Since then the equilibrium between them has been greatly disturbed.

According to the last census the aggregate population of the United States amounted to 17,063,357, of which the northern section contained 9,728,920, and the southern 7,334,437, making a difference in round numbers, of 2,400,000. The number of States had increased from sixteen to twenty-six, making an addition of ten States. In the meantime the position of Delaware had become doubtful as to which section she properly belonged. Considering her as neutral, the Northern States will have thirteen and the Southern States twelve, making a difference in the Senate of two senators in favor of the former. According to the apportionment under the census of 1840, there were two hundred and twenty-three members of the House of Representatives, of which the Northern States had one hundred and thirty-five, and

the Southern States (considering Delaware as neutral) eighty-seven, making a difference in favor of the former in the House of Representatives of forty-eight. The difference in the Senate of two members, added to this, gives to the North in the Electoral College, a majority of fifty. Since the census of 1840, four States have been added to the Union—Iowa, Wisconsin, Florida, and Texas. They leave the difference in the Senate as it was when the census was taken; but add two to the side of the North in the House, making the present majority in the House in its favor fifty, and in the Electoral College fifty-two.

The result of the whole is to give the northern section a predominance in every department of the Government, and thereby concentrate in it the two elements which constitute the Federal Government,—majority of States, and a majority of their population, estimated in federal numbers. Whatever section concentrates the two in itself possesses the control of the entire Government.

But we are just at the close of the sixth decade, and the commencement of the seventh. The census is to be taken this year, which must add greatly to the decided preponderance of

the North in the House of Representatives and in the Electoral College. The prospect is, also, that a great increase will be added to its present preponderance in the Senate, during the period of the decade, by the addition of new States. Two territories, Oregon and Minnesota, are already in progress, and strenuous efforts are making to bring in three additional States [3] from the territory recently conquered from Mexico; which, if successful, will add three other States in a short time to the northern section, making five States; and increasing the present number of its States from fifteen to twenty, and of its senators from thirty to forty. On the contrary, there is not a single territory in progress in the southern section, and no certainty that any additional State will be added to it during the decade. The prospect then is, that the two sections in the senate, should the effort now made to exclude the South [4] from the newly acquired territories succeed, will stand before the end of the decade, twenty Northern States to fourteen Southern (considering Delaware as neutral), and forty Northern senators to twenty-eight Southern. This great increase of senators, added to the great increase of members of the House of Representatives and the Electoral

College on the part of the North, which must take place under the next decade, will effectually and irretrievably destroy the equilibrium which existed when the Government commenced.'

Had this destruction been the operation of time, without the interference of Government, the South would have had no reason to complain; but such was not the fact. It was caused by the legislation of this Government, which was appointed as the common agent of all, and charged with the protection of the interests and security of all. The legislation by which it has been effected may be classed under three heads. The first is, that series of acts by which the South has been excluded from the common territory belonging to all the States as members of the Federal Union—which have had the effect of extending vastly the portion allotted to the northern section, and restricting within narrow limits the portion left the South. The next consists in adopting a system of revenue and disbursements, by which an undue proportion of the burden of taxation has been imposed upon the South, and an undue proportion of its proceeds appropriated to the North; and the last is a system of political measures, by which the original character of the Government has

been radically changed. I propose to bestow upon each of these, in the order they stand, a few remarks, with the view of showing that it is owing to the action of this Government that the equilibrium between the two sections has been destroyed, and the whole powers of the system centered in a sectional majority.

The first of the series of Acts by which the South was deprived of its due share of the territories, originated with the confederacy which preceded the existence of this Government. It is to be found in the provision of the ordinance of 1787. Its effect was to exclude the South entirely from that vast and fertile region which lies between the Ohio and the Mississippi rivers, now embracing five States and one Territory.[6] The next of the series is the Missouri compromise, which excluded the South from that large portion of Louisiana which lies north of 36° 30′, excepting what is included in the State of Missouri. The last of the series excluded the South from the whole of Oregon Territory. All these, in the slang of the day, were what are called slave territories,[7] and not free soil; that is, territories belonging to slaveholding powers and open to the emigration of masters with their slaves. By these

several Acts the South was excluded from one million two hundred and thirty-eight thousand and twenty-five square miles—an extent of country considerably exceeding the entire valley of the Mississippi. To the South was left the portion of the Territory of Louisiana lying south of 36° 30′, and the portion north of it included in the State of Missouri, with the portion lying south of 36° 30′ including the States of Louisiana and Arkansas, and the territory lying west of the latter, and south of 36° 30′, called the Indian country. These, with the Territory of Florida, now the State, make, in the whole, two hundred and eighty-three thousand five hundred and three square miles. To this must be added the territory acquired with Texas. If the whole should be added to the southern section it would make an increase of three hundred and twenty-five thousand five hundred and twenty, which would make the whole left to the South six hundred and nine thousand and twenty-three. But a large part of Texas is still in contest between the two sections, which leaves it uncertain what will be the real extent of the proportion of territory that may be left to the South.

I have not included the territory recently ac-

quired by the treaty with Mexico. The North is making the most strenuous efforts to appropriate the whole to herself, by excluding the South from every foot of it. If she should succeed, it will add to that from which the South has already been excluded, 526,078 square miles, and would increase the whole which the North has appropriated to herself, to 1, 764,023, not including the portion that she may succeed in excluding us from in Texas. To sum up the whole, the United States, since they declared their independence, have acquired 2,373,046 square miles of territory, from which the North will have excluded the South, if she should succeed in monopolizing the newly acquired territories, about three fourths of the whole, leaving to the South but about one fourth.

Such is the first and great cause that has destroyed the equilibrium between the two sections in the Government.

The next is the system of revenue and disbursements which has been adopted by the Government. It is well known that the Government has derived its revenue mainly from duties on imports. I shall not undertake to show that such duties must necessarily fall mainly on

the exporting States, and that the South, as the great exporting portion of the Union, has in reality paid vastly more than her due proportion of the revenue; because I deem it unnecessary, as the subject has on so many occasions been fully discussed. Nor shall I, for the same reason, undertake to show that a far greater portion of the revenue has been disbursed at the North, than its due share; and that the joint effect of these causes has been, to transfer a vast amount from South to North, which, under an equal system of revenue and disbursements, would not have been lost to her. If to this be added, that many of the duties were imposed, not for revenue, but for protection,—that is, intended to put money, not in the treasury, but directly into the pockets of the manufacturers,—some conception may be formed of the immense amount which, in the long course of sixty years, has been transferred from South to North. There are no data by which it can be estimated with any certainty; but it is safe to say that it amounts to hundreds of millions of dollars. Under the most moderate estimate, it would be sufficient to add greatly to the wealth of the North, and thus greatly increase her popula-

tion by attracting emigration from all quarters to that section.

This, combined with the great primary cause, amply explains why the North has acquired a preponderance in every department of the Government by its disproportionate increase of population and States. The former, as has been shown, has increased, in fifty years, 2,400,000 over that of the South. This increase of population, during so long a period, is satisfactorily accounted for, by the number of emigrants, and the increase of their descendants, which have been attracted to the northern section from Europe and the South, in consequence of the advantages derived from the causes assigned. If they had not existed—if the South had retained all the capital which had been extracted from her by the fiscal action of the Government; and, if it had not been excluded by the ordinance of 1787 and the Missouri compromise, from the region lying between the Ohio and the Mississippi rivers, and between the Mississippi and the Rocky Mountains north of 36° 30′—it scarcely admits of a doubt, that it would have divided the emigration with the North, and by retaining her own people, would have at least equalled the North in population

under the census of 1840, and probably under that about to be taken. She would also, if she had retained her equal rights in those territories, have maintained an equality in the number of States with the North, and have preserved the equilibrium between the two sections that existed at the commencement of the Government. The loss, then, of the equilibrium is to be attributed to the action of this Government.

But while these measures were destroying the equilibrium between the two sections, the action of the Government was leading to a radical change in its character, by concentrating all the power of the system in itself. The occasion will not permit me to trace the measures by which this great change has been consummated. If it did, it would not be difficult to show that the process commenced at an early period of the Government; and that it proceeded, almost without interruption, step by step, until it virtually absorbed its entire powers; but without going through the whole process to establish the fact, it may be done satisfactorily by a very short statement.

That the Government claims, and practically maintains, the right to decide in the last resort,

as to the extent of its powers,[8] will scarcely be denied by any one conversant with the political history of the country. That it also claims the right to resort to force to maintain whatever power it claims against all opposition is equally certain. Indeed it is apparent, from what we daily hear, that this has become the prevailing and fixed opinion of a great majority of the community. Now, I ask, what limitation can possibly be placed upon the powers of a government claiming and exercising such rights? And, if none can be, how can the separate governments of the States maintain and protect the powers reserved to them by the Constitution—or the people of the several States maintain those which are reserved to them, and among others, the sovereign powers by which they ordained and established, not only their separate State Constitutions and Governments, but also the Constitution and Government of the United States? But, if they have no constitutional means of maintaining them against the right claimed by this Government, it necessarily follows, that they hold them at its pleasure and discretion, and that all the powers of the system are in reality concentrated in it. It also follows, that the character of the Government

has been changed in consequence, from a federal republic, as it originally came from the hands of its framers, into a great national consolidated democracy. It has indeed, at present, all the characteristics of the latter, and not of the former, although it still retains its outward form.

The result of the whole of those causes combined is, that the North has acquired a decided ascendency over every department of this Government, and through it a control over all the powers of the system. A single section governed by the will of the numerical majority, has now, in fact, the control of the Government and the entire powers of the system. What was once a constitutional federal republic, is now converted, in reality, into one as absolute as that of the Autocrat of Russia, and as despotic in its tendency as any absolute government that ever existed.

As, then, the North has the absolute control over the Government, it is manifest that on all questions between it and the South, where there is a diversity of interests, the interest of the latter will be sacrificed to the former, however oppressive the effects may be; as the South possesses no means by which it can re-

sist, through the action of the Government.[8] But if there was no question of vital importance to the South, in reference to which there was a diversity of views between the two sections, this state of things might be endured without the hazard of destruction to the South. But such is not the fact. There is a question of vital importance to the southern section, in reference to which the views and feelings of the two sections are as opposite and hostile as they can possibly be.

I refer to the relation between the two races in the southern section, which constitutes a vital portion of her social organization. Every portion of the North entertains views and feelings more or less hostile to it. Those most opposed and hostile, regard it as a sin, and consider themselves under the most sacred obligation to use every effort to destroy it. Indeed, to the extent that they conceive that they have power, they regard themselves as implicated in the sin, and responsible for not suppressing it by the use of all and every means. Those less opposed and hostile, regarded it as a crime—an offence against humanity, as they call it ; and, although not so fanatical, feel themselves bound to use all efforts to effect the same object ; while those

who are least opposed and hostile, regard it as a blot and a stain on the character of what they call the Nation, and feel themselves accordingly bound to give it no countenance or support. On the contrary, the southern section regards the relation as one which cannot be destroyed without subjecting the two races to the greatest calamity, and the section to poverty, desolation, and wretchedness; and accordingly they feel bound, by every consideration of interest and safety, to defend it.[10]

This hostile feeling on the part of the North toward the social organization of the South long lay dormant, and it only required some cause to act on those who felt most intensely that they were responsible for its continuance, to call it into action. The increasing power of this Government, and of the control of the northern section over all its departments, furnished the cause. It was this which made the impression on the minds of many, that there was little or no restraint to prevent the Government from doing whatever it might choose to do. This was sufficient of itself to put the most fanatical portion of the North in action, for the purpose of destroying the existing relation between the two races in the South.

The first organized movement toward it commenced in 1835.[11] Then, for the first time, societies were organized, presses established, lecturers sent forth to excite the people of the North, and incendiary publications scattered over the whole South, through the mail. The South was thoroughly aroused. Meetings were held everywhere, and resolutions adopted, calling upon the North to apply a remedy to arrest the threatened evil, and pledging themselves to adopt measures for their own protection, if it was not arrested. At the meeting of Congress, petitions poured in from the North, calling upon Congress to abolish slavery in the District of Columbia, and to prohibit, what they called, the internal slave trade between the States—announcing at the same time, that their ultimate object was to abolish slavery, not only in the District, but in the States and throughout the Union. At this period, the number engaged in the agitation was small, and possessed little or no personal influence.

Neither party in Congress had, at that time, any sympathy with them or their cause. The members of each party presented their petitions with great reluctance. Nevertheless, small, and contemptible as the party then was,

both of the great parties of the North dreaded them. They felt, that though small, they were organized in reference to a subject which had a great and commanding influence over the northern mind. Each party, on that account, feared to oppose their petitions, lest the opposite party should take advantage of the one who might do so, by favoring them. The effect was, that both united in insisting that the petitions should be received, and that Congress should take jurisdiction over the subject. To justify their course, they took the extraordinary ground, that Congress was bound to receive petitions on every subject, however objectionable they might be, and whether they had, or had not, jurisdiction over the subject. Those views prevailed in the House of Representatives, and partially in the Senate; and thus the party succeeded in their first movements, in gaining what they proposed—a position in Congress, from which agitation could be extended over the whole Union. This was the commencement of the agitation, which has ever since continued, and which, as is now acknowledged, has endangered the Union itself.

As for myself, I believed at that early period, if the party who got up the petitions should

succeed in getting Congress to take jurisdiction, that agitation would follow, and that it would in the end, if not arrested, destroy the Union. I then so expressed myself in debate, and called upon both parties to take grounds against assuming jurisdiction; but in vain.[12] Had my voice been heeded, and had Congress refused to take jurisdiction, by the united votes of all parties, the agitation which followed would have been prevented, and the fanatical zeal that gave impulse to the agitation, and which has brought us to our present perilous condition, would have become extinguished, from the want of fuel to feed the flame. *That* was the time for the North to have shown her devotion to the Union; but, unfortunately, both of the great parties of that section were so intent on obtaining or retaining party ascendency, that all other considerations were overlooked or forgotten.

What has since followed are but natural consequences. With the success of their first movement, this small fanatical party began to acquire strength; and with that, to become an object of courtship to both the great parties. The necessary consequence was, a further increase of power, and a gradual tainting of the opinions of both the other parties with their doctrines,

until the infection has extended over both; and the great mass of the population of the North, who, whatever may be their opinion of the original abolition party, which still preserves its distinctive organization, hardly ever fail, when it comes to acting, to co-operate in carrying out their measures. With the increase of their influence, they extended the sphere of their action. In a short time after the commencement of their first movement, they had acquired sufficient influence to induce the legislatures of most of the Northern States to pass acts, which in effect abrogated the clause of the Constitution that provides for the delivery up of fugitive slaves. Not long after, petitions followed to abolish slavery in forts, magazines, and dockyards, and all other places where Congress had exclusive power of legislation. This was followed by petitions and resolutions of legislatures of the Northern States, and popular meetings, to exclude the Southern States from all territories acquired, or to be acquired, and to prevent the admission of any State hereafter into the Union, which, by its constitution, does not prohibit slavery. And Congress is invoked to do all this, expressly with the view of the final abolition of slavery in the States. That

has been avowed to be the ultimate object from the beginning of the agitation until the present time; and yet the great body of both parties of the North, with the full knowledge of the fact, although disavowing the abolitionists, have co-operated with them in almost all their measures.

Such is a brief history of the agitation, as far as it has yet advanced. Now I ask, Senators, what is there to prevent its further progress, until it fulfils the ultimate end proposed, unless some decisive measure should be adopted to prevent it? Has any one of the causes, which has added to its increase from its original small and contemptible beginning until it has attained its present magnitude, diminished in force? Is the original cause of the movement—that slavery is a sin, and ought to be suppressed—weaker now than at the commencement? Or is the abolition party less numerous or influential, or have they less influence with, or less control over the two great parties of the North in elections? Or has the South greater means of influencing or controlling the movements of this Government now, than it had when the agitation commenced? To all these questions but one answer can be given: No, no, no. The very

reverse is true. Instead of being weaker, all the elements in favor of agitation are stronger now than they were in 1835, when it first commenced, while all the elements of influence on the part of the South are weaker. Unless something decisive is done, I again ask, what is to stop this agitation, before the great and final object at which it aims—the abolition of slavery in the States—is consummated? Is it, then, not certain, that if something is not done to arrest it, the South will be forced to choose between abolition and secession? Indeed, as events are now moving, it will not require the South to secede, in order to dissolve the Union. Agitation will of itself effect it, of which its past history furnishes abundant proof—as I shall next proceed to show.

It is a great mistake to suppose that disunion can be effected by a single blow. The cords which bound these States together in one common Union, are far too numerous and powerful for that. Disunion must be the work of time. It is only through a long process, and successively, that the cords can be snapped, until the whole fabric falls asunder. Already the agitation of the slavery question has snapped some of the most important, and has greatly weakened all the others, as I shall proceed to show.

The cords that bind the States together are not only many, but various in character. Some are spiritual or ecclesiastical; some political; others social. Some appertain to the benefit conferred by the Union, and others to the feeling of duty and obligation.

The strongest of those of a spiritual and ecclesiastical nature, consisted in the unity of the great religious denominations, all of which originally embraced the whole Union. All these denominations, with the exception, perhaps, of the Catholics, were organized very much upon the principle of our political institutions. Beginning with smaller meetings, corresponding with the political divisions of the country, their organization terminated in one great central assemblage, corresponding very much with the character of Congress. At these meetings the principal clergymen and lay members of the respective denominations from all parts of the Union, met to transact business relating to their common concerns. It was not confined to what appertained to the doctrines and discipline of the respective denominations, but extended to plans for disseminating the Bible—establishing missions, distributing tracts —and of establishing presses for the publication

of tracts, newspapers, and periodicals, with a view of diffusing religious information—and for the support of their respective doctrines and creeds. All this combined contributed greatly to strengthen the bonds of the Union. The ties which held each denomination together formed a strong cord to hold the whole Union together, but, powerful as they were, they have not been able to resist the explosive effect of slavery agitation.

The first of these cords which snapped, under its explosive force, was that of the powerful Methodist Episcopal Church.[13] The numerous and strong ties which held it together, are all broken, and its unity is gone. They now form separate churches; and, instead of that feeling of attachment and devotion to the interests of the whole church which was formerly felt, they are now arrayed into two hostile bodies, engaged in litigation about what was formerly their common property.

The next cord that snapped was that of the Baptists—one of the largest and most respectable of the denominations. That of the Presbyterian is not entirely snapped, but some of its strands have given way. That of the Episcopal Church is the only one of the four great

Protestant denominations which remains unbroken and entire.

The strongest cord, of a political character, consists of the many and powerful ties that have held together the two great parties which have, with some modifications, existed from the beginning of the Government. They both extended to every portion of the Union, and strongly contributed to hold all its parts together. But this powerful cord has fared no better than the spiritual. It resisted, for a long time, the explosive tendency of the agitation, but has finally snapped under its force—if not entirely, in a great measure. Nor is there one of the remaining cords which has not been greatly weakened. To this extent the Union has already been destroyed by agitation, in the only way it can be, by sundering and weakening the cords which bind it together.

If the agitation goes on, the same force, acting with increased intensity, as has been shown, will finally snap every cord, when nothing will be left to hold the States together except force. But, surely, that can, with no propriety of language, be called a Union, when the only means by which the weaker is held connected with the stronger portion is *force*. It may, indeed,

keep them connected; but the connection will partake much more of the character of subjugation, on the part of the weaker to the stronger, than the union of free, independent States, in one confederation, as they stood in the early stages of the Government, and which only is worthy of the sacred name of Union.

Having now, Senators, explained what it is that endangers the Union, and traced it to its cause, and explained its nature and character, the question again recurs, How can the Union be saved? To this I answer, there is but one way by which it can be, and that is by adopting such measures as will satisfy the States belonging to the southern section, that they can remain in the Union consistently with their honor and their safety. There is, again, only one way by which this can be effected, and that is by removing the causes by which this belief has been produced. Do *this*, and discontent will cease, harmony and kind feelings between the sections be restored, and every apprehension of danger to the Union be removed. The question, then, is, How can this be done? But, before I undertake to answer this question, I propose to show by what the Union cannot be saved.

It cannot, then, be saved by eulogies on the Union, however splendid or numerous. The cry of "Union, Union, the glorious Union!" can no more prevent disunion than the cry of "Health, health, glorious health!" on the part of the physician, can save a patient lying dangerously ill. So long as the Union, instead of being regarded as a protector, is regarded in the opposite character, by not much less than a majority of the States, it will be in vain to attempt to conciliate them by pronouncing eulogies on it.

Besides, this cry of Union comes commonly from those whom we cannot believe to be sincere. It usually comes from our assailants. But we cannot believe them to be sincere; for if they loved the Union, they would necessarily be devoted to the Constitution. It made the Union,—and to destroy the Constitution would be to destroy the Union. But the only reliable and certain evidence of devotion to the Constitution is to abstain, on the one hand, from violating it, and to repel, on the other, all attempts to violate it. It is only by faithfully performing these high duties that the Constitution can be preserved, and with it the Union.

But how stands the profession of devotion to

the Union by our assailants, when brought to this test? Have they abstained from violating the Constitution? Let the many acts passed by the Northern States to set aside and annul the clause of the Constitution providing for the delivery up of fugitive slaves answer. I cite this, not that it is the only instance (for there are many others), but because the violation in this particular is too notorious and palpable to be denied. Again: Have they stood forth faithfully to repel violations of the Constitution? Let their course in reference to the agitation of the slavery question, which was commenced and has been carried on for fifteen years, avowedly for the purpose of abolishing slavery in the States—an object all acknowledged to be unconstitutional,—answer. Let them show a single instance, during this long period, in which they have denounced the agitators or their attempts to effect what is admitted to be unconstitutional, or a single measure which they have brought forward for that purpose. How can we, with all these facts before us, believe that they are sincere in their profession of devotion to the Union, or avoid believing their profession is but intended to increase the vigor of their assaults and to weaken the force of our resistance?

Nor can we regard the profession of devotion to the Union, on the part of those who are not our assailants, as sincere, when they pronounce eulogies upon the Union, evidently with the intent of charging us with disunion, without uttering one word of denunciation against our assailants. If friends of the Union, their course should be to unite with us in repelling these assaults, and denouncing the authors as enemies of the Union. Why they avoid this, and pursue the course they do, it is for them to explain.

Nor can the Union be saved by invoking the name of the illustrious Southerner whose mortal remains repose on the western bank of the Potomac. He was one of us,—a slaveholder and a planter. We have studied his history, and find nothing in it to justify submission to wrong. On the contrary, his great fame rests on the solid foundation, that, while he was careful to avoid doing wrong to others, he was prompt and decided in repelling wrong. I trust that, in this respect, we profited by his example.

Nor can we find any thing in his history to deter us from seceding from the Union, should it fail to fulfil the objects for which it was insti-

tuted, by being permanently and hopelessly converted into the means of oppressing instead of protecting us. On the contrary, we find much in his example to encourage us, should we be forced to the extremity of deciding between submission and disunion.

There existed then, as well as now, a union —between the parent country and her colonies. It was a union that had much to endear it to the people of the colonies. Under its protecting and superintending care, the colonies were planted and grew up and prospered, through a long course of years, until they became populous and wealthy. Its benefits were not limited to them. Their extensive agricultural and other productions, gave birth to a flourishing commerce, which richly rewarded the parent country for the trouble and expense of establishing and protecting them. Washington was born and grew up to manhood under that Union. He acquired his early distinction in its service, and there is every reason to believe that he was devotedly attached to it. But his devotion was a national one. He was attached to it, not as an end, but as a means to an end. When it failed to fulfil its end, and, instead of affording protection, was converted into the

means of oppressing the colonies, he did not hesitate to draw his sword, and head the great movement by which that union was forever severed, and the independence of these States established. This was the great and crowning glory of his life, which has spread his fame over the whole globe, and will transmit it to the latest posterity.

Nor can the plan proposed by the distinguished Senator from Kentucky, nor that of the administration, save the Union.[14] I shall pass by, without remark, the plan proposed by the Senator. I, however, assure the distinguished and able Senator, that, in taking this course, no disrespect whatever is intended to him or to his plan. I have adopted it because so many Senators of distinguished abilities, who were present when he delivered his speech,[15] and explained his plan, and who were fully capable to do justice to the side they support, have replied to him. * * *[16]

Having now shown what cannot save the Union, I return to the question with which I commenced, How can the Union be saved? There is but one way by which it can with any certainty; and that is, by a full and final settlement, on the principle of justice, of all the ques-

tions at issue between the two sections. The South asks for justice, simple justice, and less she ought not to take. She has no compromise to offer, but the Constitution; and no concession or surrender to make. She has already surrendered so much that she has little left to surrender. Such a settlement would go to the root of the evil, and remove all cause of discontent, by satisfying the South that she could remain honorably and safely in the Union, and thereby restore the harmony and fraternal feelings between the sections, which existed anterior to the Missouri agitation. Nothing else can, with any certainty, finally and forever settle the question at issue, terminate agitation, and save the Union.

But can this be done? Yes, easily; not by the weaker party, for it can, of itself do nothing, —not even protect itself—but by the stronger. The North has only to will it to accomplish it —to do justice by conceding to the South an equal right in the acquired territory, and to do her duty by causing the stipulations relative to fugitive slaves to be faithfully fulfilled, to cease the agitation of the slave question, and to provide for the insertion of a provision in the Constitution, by an amendment, which will restore

to the South, in substance, the power she possessed of protecting herself, before the equilibrium between the sections was destroyed by the action of this Government.[17] There will be no difficulty in devising such a provision—one that will protect the South, and which, at the same time, will improve and strengthen the Government, instead of impairing and weakening it.

But will the North agree to this? It is for her to answer the question. But, I will say, she cannot refuse, if she has half the love for the Union which she professes to have, or without justly exposing herself to the charge that her love of power and aggrandizement is far greater than her love of the Union. At all events the responsibility of saving the Union rests on the North, and not on the South. The South cannot save it by any act of hers, and the North may save it without any sacrifice whatever, unless to do justice, and to perform her duties under the Constitution, should be regarded by her as a sacrifice.

It is time, Senators, that there should be an open and manly avowal on all sides, as to what is intended to be done. If the question is not now settled, it is uncertain whether it ever can

hereafter be; and we, as the representatives of the States of this Union, regarded as governments, should come to a distinct understanding as to our respective views, in order to ascertain whether the great questions at issue can be settled or not. If you, who represent the stronger portion, cannot agree to settle on the broad principle of justice and duty, say so; and let the States we both represent agree to separate and part in peace. If you are unwilling we should part in peace, tell us so, and we shall know what to do, when you reduce the question to submission or resistance. If you remain silent, you will compel us to infer by your acts what you intend. In that case, California will become the test question. If you admit her, under all the difficulties that oppose her admission, you compel us to infer that you intend to exclude us from the whole of the acquired territories, with the intention of destroying, irretrievably, the equilibrium between the two sections. We would be blind not to perceive in that case, that your real objects are power and aggrandizement, and infatuated, not to act accordingly.

I have now, Senators, done my duty in expressing my opinions fully, freely and candidly,

on this solemn occasion. In doing so, I have been governed by the motives which have governed me in all the stages of the agitation of the slavery question since its commencement. I have exerted myself, during the whole period, to arrest it, with the intention of saving the Union, if it could be done; and if it could not, to save the section where it has pleased Providence to cast my lot, and which I sincerely believe has justice and the Constitution on its side. Having faithfully done my duty to the best of my ability, both to the Union and my section, throughout this agitation, I shall have the consolation, let what will come, that I am free from all responsibility.[18]

DANIEL WEBSTER,*

OF MASSACHUSETTS.[1]

(BORN, 1782, DIED, 1852.)

ON THE CONSTITUTION AND THE UNION; SENATE OF THE UNITED STATES, MARCH 7, 1850.[2]

MR. PRESIDENT:

I wish to speak to-day, not as a Massachusetts man, nor as a northern man, but as an American, and a member of the Senate of the United States. It is fortunate that there is a Senate of the United States; a body not yet moved from its propriety, nor lost to a just sense of its own dignity and its own high responsibilities, and a body to which the country looks, with confidence, for wise, moderate, patriotic, and healing counsels. It is not to be denied that we live in the midst of strong agitations and are surrounded by very considerable dangers to our institutions and government. The imprisoned winds are let loose. The East, the North, and the stormy South combine to throw the whole sea into commotion, to toss its billows to

* For notes on Webster, see Appendix, p. 388.

the skies, and disclose its profoundest depths. I do not affect to regard myself, Mr. President, as holding, or fit to hold, the helm in this combat with the political elements; but I have a duty to perform, and I mean to perform it with fidelity, not without a sense of existing dangers, but not without hope. I have a part to act, not for my own security or safety, for I am looking out for no fragment upon which to float away from the wreck, if wreck there must be, but for the good of the whole, and the preservation of all; and there is that which will keep me to my duty during this struggle, whether the sun and the stars shall appear for many days. I speak to-day for the preservation of the Union. "Hear me for my cause." I speak to-day out of a solicitous and anxious heart, for the restoration to the country of that quiet and that harmony which make the blessings of this Union so rich, and so dear to us all. These are the topics that I propose to myself to discuss; these are the motives, and the sole motives, that influence me in the wish to communicate my opinions to the Senate and the country; and if I can do any thing, however little, for the promotion of these ends, I shall have accomplished all that I expect.

* * *[3] We all know, sir, that slavery has existed in the world from time immemorial. There was slavery in the earliest periods of history, among the Oriental nations. There was slavery among the Jews; the theocratic government of that people issued no injunction against it. There was slavery among the Greeks. * * *[4] At the introduction of Christianity, the Roman world was full of slaves, and I suppose there is to be found no injunction against that relation between man and man in the teachings of the Gospel of Jesus Christ or of any of his apostles. * * *[5] Now, sir, upon the general nature and influence of slavery there exists a wide difference of opinion between the northern portion of this country and the southern. It is said on the one side, that, although not the subject of any injunction or direct prohibition in the New Testament, slavery is a wrong; that it is founded merely in the right of the strongest; and that it is an oppression, like unjust wars, like all those conflicts by which a powerful nation subjects a weaker to its will; and that, in its nature, whatever may be said of it in the modifications which have taken place, it is not according to the meek spirit of the Gospel. It is not "kindly affectioned"; it does not "seek anoth-

er's, and not its own"; it does not "let the oppressed go free." These are sentiments that are cherished, and of late with greatly augmented force, among the people of the Northern States. They have taken hold of the religious sentiment of that part of the country, as they have, more or less, taken hold of the religious feelings of a considerable portion of mankind. The South upon the other side, having been accustomed to this relation between the two races all their lives; from their birth, having been taught, in general, to treat the subjects of this bondage with care and kindness, and I believe, in general, feeling great kindness for them, have not taken the view of the subject which I have mentioned. There are thousands of religious men, with consciences as tender as any of their brethren at the North, who do not see the unlawfulness of slavery; and there are more thousands, perhaps, that, whatsoever they may think of it in its origin, and as a matter depending upon natural rights, yet take things as they are, and, finding slavery to be an established relation of the society in which they live, can see no way in which, let their opinions on the abstract question be what they may, it is in the power of this generation to relieve themselves from

this relation. And candor obliges me to say, that I believe they are just as conscientious many of them, and the religious people, all of them, as they are at the North who hold different opinions. * * *[6]

There are men who, with clear perceptions, as they think, of their own duty, do not see how too eager a pursuit of one duty may involve them in the violation of others, or how too warm an embracement of one truth may lead to a disregard of other truths just as important. As I heard it stated strongly, not many days ago, these persons are disposed to mount upon some particular duty, as upon a war-horse, and to drive furiously on and upon and over all other duties that may stand in the way. There are men who, in reference to disputes of that sort, are of opinion that human duties may be ascertained with the exactness of mathematics. They deal with morals as with mathematics; and they think what is right may be distinguished from what is wrong with the precision of an algebraic equation. They have, therefore, none too much charity toward others who differ from them. They are apt, too, to think that nothing is good but what is perfect, and that there are no compromises or

modifications to be made in consideration of difference of opinion or in deference to other men's judgment. If their perspicacious vision enables them to detect a spot on the face of the sun, they think that a good reason why the sun should be struck down from heaven.[7] They prefer the chance of running into utter darkness to living in heavenly light, if that heavenly light be not absolutely without any imperfection. * * *[8]

But we must view things as they are. Slavery does exist in the United States. It did exist in the States before the adoption of this Constitution, and at that time. Let us, therefore, consider for a moment what was the state of sentiment, North and South, in regard to slavery,—in regard to slavery, at the time this Constitution was adopted. A remarkable change has taken place since; but what did the wise and great men of all parts of the country think of slavery then? In what estimation did they hold it at the time when this Constitution was adopted? It will be found, sir, if we will carry ourselves by historical research back to that day, and ascertain men's opinions by authentic records still existing among us, that there was no diversity of opinion between

the North and the South upon the subject of slavery. It will be found that both parts of the country held it equally an evil, a moral and political evil. It will not be found that, either at the North or at the South, there was much, though there was some, invective against slavery as inhuman and cruel. The great ground of objection to it was political; that it weakened the social fabric; that, taking the place of free labor, society became less strong and labor less productive; and therefore we find from all the eminent men of the time the clearest expression of their opinion that slavery is an evil. They ascribed its existence here, not without truth, and not without some acerbity of temper and force of language, to the injurious policy of the mother country, who, to favor the navigator, had entailed these evils upon the colonies. * * * You observe, sir, that the term *slave*, or *slavery*, is not used in the Constitution. The Constitution does not require that "fugitive slaves" shall be delivered up. It requires that persons held to service in one State, and escaping into another, shall be delivered up. Mr. Madison opposed the introduction of the term *slave*, or *slavery*, into the Constitution; for he said, that he did

not wish to see it recognized by the Constitution of the United States of America that there could be property in men. * * *[10]

Here we may pause. There was, if not an entire unanimity, a general concurrence of sentiment running through the whole community, and especially entertained by the eminent men of all parts of the country. But soon a change began, at the North and the South, and a difference of opinion showed itself; the North growing much more warm and strong against slavery, and the South growing much more warm and strong in its support. Sir, there is no generation of mankind whose opinions are not subject to be influenced by what appear to them to be their present emergent and exigent interests. I impute to the South no particularly selfish view in the change which has come over her. I impute to her certainly no dishonest view. All that has happened has been natural. It has followed those causes which always influence the human mind and operate upon it. What, then, have been the causes which have created so new a feeling in favor of slavery in the South, which have changed the whole nomenclature of the South on that subject, so that, from being thought and described in the terms I have mentioned and will not repeat,

it has now become an institution, a cherished institution, in that quarter; no evil, no scourge, but a great religious, social, and moral blessing, as I think I have heard it latterly spoken of? I suppose this, sir, is owing to the rapid growth and sudden extension of the cotton plantations of the South. So far as any motive consistent with honor, justice, and general judgment could act, it was the cotton interest that gave a new desire to promote slavery, to spread it, and to use its labor.

I again say that this change was produced by causes which must always produce like effects. The whole interest of the South became connected, more or less, with the extension of slavery. If we look back to the history of the commerce of this country in the early years of this government, what were our exports? Cotton was hardly, or but to a very limited extent, known. In 1791 the first parcel of cotton of the growth of the United States was exported, and amounted only to 19,200 pounds. It has gone on increasing rapidly, until the whole crop may now, perhaps, in a season of great product and high prices, amount to a hundred millions of dollars. In the years I have mentioned, there was more of wax, more of indigo, more of rice, more of almost every article of export

from the South, than of cotton. When Mr. Jay negotiated the treaty of 1794 with England, it is evident from the Twelfth Article of the Treaty, which was suspended by the Senate, that he did not know that cotton was exported at all from the United States.

* * * * * * *[11]

Sir, there is not so remarkable a chapter in our history of political events, political parties, and political men as is afforded by this admission of a new slave-holding territory, so vast that a bird cannot fly over it in a week. New England, as I have said, with some of her own votes, supported this measure. Three-fourths of the votes of liberty-loving Connecticut were given for it in the other house, and one half here. There was one vote for it from Maine but, I am happy to say, not the vote of the honorable member who addressed the Senate the day before yesterday,[12] and who was then a Representative from Maine in the House of Representatives; but there was one vote from Maine, ay, and there was one vote for it from Massachusetts,[13] given by a gentleman then representing, and now living in, the district in which the prevalence of Free Soil sentiment for a couple of years or so has defeated the choice of any member to represent it in Con-

gress.[14] Sir, that body of Northern and Eastern men who gave those votes at that time are now seen taking upon themselves, in the nomenclature of politics, the appellation of the Northern Democracy.[15] They undertook to wield the destinies of this empire, if I may give that name to a Republic, and their policy was, and they persisted in it, to bring into this country and under this government all the territory they could. They did it, in the case of Texas, under pledges, absolute pledges, to the slave interest, and they afterwards lent their aid in bringing in these new conquests, to take their chance for slavery or freedom. My honorable friend from Georgia,[16] in March, 1847, moved the Senate to declare that the war ought not to be prosecuted for the conquest of territory, or for the dismemberment of Mexico. The whole of the Northern Democracy voted against it. He did not get a vote from them. It suited the patriotic and elevated sentiments of the Northern Democracy to bring in a world from among the mountains and valleys of California and New Mexico, or any other part of Mexico, and then quarrel about it; to bring it in, and then endeavor to put upon it the saving grace of the Wilmot Proviso. There were two eminent and highly respectable gentlemen from

the North and East, then leading gentlemen in the Senate (I refer, and I do so with entire respect, for I entertain for both of those gentlemen, in general, high regard, to Mr. Dix of New York and Mr. Niles of Connecticut), who both voted for the admission of Texas. They would not have that vote any other way than as it stood; and they would have it as it did stand. I speak of the vote upon the annexation of Texas. Those two gentlemen would have the resolution of annexation just as it is, without amendment; and they voted for it just as it is, and their eyes were all open to its true character. The honorable member from South Carolina who addressed us the other day was then Secretary of State. His correspondence with Mr. Murphy, the Chargé d'Affaires of the United States in Texas, had been published. That correspondence was all before those gentlemen, and the Secretary had the boldness and candor to avow in that correspondence, that the great object sought by the annexation of Texas was to strengthen the slave interest of the South. Why, sir, he said so in so many words.

Mr. Calhoun. Will the honorable Senator permit me to interrupt him for a moment?

Mr. Webster. Certainly.

Mr. Calhoun. I am very reluctant to interrupt the honorable gentleman; but, upon a point of so much importance, I deem it right to put myself *rectus in curia*. I did not put it upon the ground assumed by the Senator. I put it upon this ground; that Great Britain had announced to this country, in so many words, that her object was to abolish slavery in Texas, and, through Texas, to accomplish the abolition of slavery in the United States and the world. The ground I put it on was, that it would make an exposed frontier, and, if Great Britain succeeded in her object, it would be impossible that that frontier could be secured against the aggressions of the Abolitionists; and that this Government was bound, under the guaranties of the Constitution, to protect us against such a state of things.

Mr. Webster. That comes, I suppose, Sir, to exactly the same thing. It was, that Texas must be obtained for the security of the slave interest of the South.

Mr. Calhoun. Another view is very distinctly given.

Mr. Webster. That was the object set forth in the correspondence of a worthy gentleman not now living, who preceded the honorable member from South Carolina in the Depart-

ment of State. There repose on the files of the Department, as I have occasion to know, strong letters from Mr. Upshur to the United States Minister in England, and I believe there are some to the same Minister from the honorable Senator himself, asserting to this effect the sentiments of this government; namely, that Great Britain was expected not to interfere to take Texas out of the hands of its then existing government and make it a free country. But my argument, my suggestion, is this: that those gentlemen who composed the Northern Democracy when Texas was brought into the Union saw clearly that it was brought in as a slave country, and brought in for the purpose of being maintained as slave territory, to the Greek Kalends." I rather think the honorable gentleman who was then Secretary of State might, in some of his correspondence with Mr. Murphy, have suggested that it was not expedient to say too much about this object, lest it should create some alarm. At any rate, Mr. Murphy wrote to him that England was anxious to get rid of the constitution of Texas, because it was a constitution establishing slavery; and that what the United States had to do was to aid the people of Texas in upholding their constitution; but that nothing should

be said which should offend the fanatical men of the North. But, Sir, the honorable member did avow this object himself, openly, boldly, and manfully; he did not disguise his conduct or his motives.

Mr. Calhoun. Never, never.

Mr. Webster. What he means he is very apt to say.

Mr. Calhoun. Always, always.

Mr. Webster. And I honor him for it.

This admission of Texas was in 1845. Then in 1847, *flagrante bello* between the United States and Mexico, the proposition I have mentioned was brought forward by my friend from Georgia, and the Northern Democracy voted steadily against it. Their remedy was to apply to the acquisitions, after they should come in, the Wilmot Proviso. What follows? These two gentlemen, worthy and honorable and influential men (and if they had not been they could not have carried the measure), these two gentlemen, members of this body, brought in Texas, and by their votes they also prevented the passage of the resolution of the honorable member from Georgia, and then they went home and took the lead in the Free Soil party. And there they stand, Sir! They leave us here, bound in honor and conscience

by the resolutions of annexation ; they leave us here, to take the odium of fulfilling the obligations in favor of slavery which they voted us into, or else the greater odium of violating those obligations, while they are at home making capital and rousing speeches for free soil and no slavery. And therefore I say, Sir, that there is not a chapter in our history, respecting public measures and public men, more full of what would create surprise, and more full of what does create, in my mind, extreme mortification, than that of the conduct of the Northern Democracy on this subject.

Mr. President, sometimes when a man is found in a new relation to things around him and to other men, he says the world has changed, and that he is not changed. I believe, sir, that our self-respect leads us often to make this declaration in regard to ourselves when it is not exactly true. An individual is more apt to change, perhaps, than all the world around him. But under the present circumstances, and under the responsibility which I know I incur by what I am now stating here, I feel at liberty to recur to the various expressions and statements, made at various times, of my own opinions and resolutions respecting the admission of Texas, and all that has followed.

* * *[18] On other occasions, in debate here, I have expressed my determination to vote for no acquisition, or cession, or annexation, North or South, East or West. My opinion has been, that we have territory enough, and that we should follow the Spartan maxim: "Improve, adorn what you have,"—seek no further. I think that it was in some observations that I made on the three million loan bill[19] that I avowed this sentiment. In short, sir, it has been avowed quite as often in as many places, and before as many assemblies, as any humble opinions of mine ought to be avowed.

But now that, under certain conditions, Texas is in the Union, with all her territory, as a slave State, with a solemn pledge also that, if she shall be divided into many States, those States may come in as slave States south of 36° 30′, how are we to deal with this subject? I know no way of honest legislation, when the proper time comes for the enactment, but to carry into effect all that we have stipulated to do. * * *[20] That is the meaning of the contract which our friends, the northern Democracy, have left us to fulfil; and I, for one, mean to fulfil it, because I will not violate the faith of the Government. What I mean to say is, that

the time for the admission of new States formed out of Texas, the number of such States, their boundaries, the requisite amount of population, and all other things connected with the admission, are in the free discretion of Congress, except this: to wit, that when new States formed out of Texas are to be admitted, they have a right, by legal stipulation and contract, to come in as slave States.

Now, as to California and New Mexico, I hold slavery to be excluded from these territories by a law even superior to that which admits and sanctions it in Texas. I mean the law of nature, of physical geography, the law of the formation of the earth. That law settles forever, with a strength beyond all terms of human enactment, that slavery cannot exist in California or New Mexico.[21] Understand me, sir; I mean slavery as we regard it; the slavery of the colored race as it exists in the southern States. I shall not discuss the point, but leave it to the learned gentlemen who have undertaken to discuss it; but I suppose there is no slavery of that description in California now. I understand that *peonism*, a sort of penal servitude, exists there, or rather a sort of voluntary sale of a man and his offspring for debt, an ar-

rangement of a peculiar nature known to the law of Mexico. But what I mean to say is, that it is impossible that African slavery, as we see it among us, should find its way, or be introduced, into California and New Mexico, as any other natural impossibility. California and New Mexico are Asiatic in their formation and scenery. They are composed of vast ridges of mountains of great height, with broken ridges and deep valleys. The sides of these mountains are entirely barren ; their tops capped by perennial snow. There may be in California, now made free by its constitution, and no doubt there are, some tracts of valuable land. But it is not so in New Mexico. Pray, what is the evidence which every gentleman must have obtained on this subject, from information sought by himself or communicated by others ? I have inquired and read all I could find, in order to acquire information on this important subject. What is there in New Mexico that could, by any possibility, induce anybody to go there with slaves ! There are some narrow strips of tillable land on the borders of the rivers ; but the rivers themselves dry up before midsummer is gone. All that the people can do in that region is to raise some little articles, some little

wheat for their *tortillas*, and that by irrigation. And who expects to see a hundred black men cultivating tobacco, corn, cotton, rice, or any thing else, on lands in New Mexico, made fertile by irrigation?

I look upon it, therefore, as a fixed fact, to use the current expression of the day, that both California and New Mexico are destined to be free, so far as they are settled at all, which I believe, in regard to New Mexico, will be but partially, for a great length of time; free by the arrangement of things ordained by the Power above us. I have therefore to say, in this respect also, that this country is fixed for freedom, to as many persons as shall ever live in it, by a less repealable law than that which attaches to the right of holding slaves in Texas; and I will say further, that, if a resolution or a bill were now before us, to provide a territorial government for New Mexico, I would not vote to put any prohibition into it whatever. Such a prohibition would be idle, as it respects any effect it would have upon the territory; and I would not take pains uselessly to reaffirm an ordinance of nature, nor to re-enact the will of God.[22] I would put in no Wilmot proviso for the mere purpose of a taunt or a reproach. I

would put into it no evidence of the votes of superior power, exercised for no purpose but to wound the pride, whether a just and a rational pride, or an irrational pride, of the citizens of the southern States. I have no such object, no such purpose. They would think it a taunt, an indignity; they would think it to be an act taking away from them what they regard as a proper equality of privilege. Whether they expect to realize any benefit from it or not, they would think it at least a plain theoretic wrong; that something more or less derogatory to their character and their rights had taken place. I propose to inflict no such wound upon anybody, unless something essentially important to the country, and efficient to the preservation of liberty and freedom, is to be effected. I repeat, therefore, sir, and, as I do not propose to address the Senate often on this subject, I repeat it because I wish it to be distinctly understood, that, for the reasons stated, if a proposition were now here to establish a government for New Mexico, and it was moved to insert a provision for a prohibition of slavery, I would not vote for it. * * *[23] Sir, we hear occasionally of the annexation of Canada; and if there be any man, any of the

northern Democracy, or any of the Free Soil party, who supposes it necessary to insert a Wilmot Proviso in a territorial government for New Mexico, that man would, of course, be of opinion that it is necessary to protect the everlasting snows of Canada from the foot of slavery by the same overspreading wing of an act of Congress. Sir, wherever there is a substantive good to be done, wherever there is a foot of land to be prevented from becoming slave territory, I am ready to assert the principle of the exclusion of slavery. I am pledged to it from the year 1837; I have been pledged to it again and again; and I will perform these pledges; but I will not do a thing unnecessarily that wounds the feelings of others, or that does discredit to my own understanding. * * *[24]

Mr. President, in the excited times in which we live, there is found to exist a state of crimination and recrimination between the North and South. There are lists of grievances produced by each; and those grievances, real or supposed, alienate the minds of one portion of the country from the other, exasperate the feelings, and subdue the sense of fraternal affection, patriotic love, and mutual regard. I

shall bestow a little attention, sir, upon these various grievances existing on the one side and on the other. I begin with complaints of the South. I will not answer, further than I have, the general statements of the honorable Senator from South Carolina, that the North has prospered at the expense of the South in consequence of the manner of administering this Government, in the collection of its revenues, and so forth. These are disputed topics, and I have no inclination to enter into them. But I will allude to other complaints of the South, and especially to one which has in my opinion, just foundation; and that is, that there has been found at the North, among individuals and among legislators, a disinclination to perform fully their constitutional duties in regard to the return of persons bound to service who have escaped into the free States. In that respect, the South, in my judgment, is right, and the North is wrong. Every member of every Northern legislature is bound by oath, like every other officer in the country, to support the Constitution of the United States; and the article of the Constitution which says to these States that they shall deliver up fugitives from service, is as binding in honor and

conscience as any other article. No man fulfils his duty in any legislature who sets himself to find excuses, evasions, escapes from this constitutional obligation. I have always thought that the Constitution addressed itself to the legislatures of the States or to the States themselves. It says that those persons escaping to other States "shall be delivered up," and I confess I have always been of the opinion that it was an injunction upon the States themselves. When it is said that a person escaping into another State, and coming therefore within the jurisdiction of that State, shall be delivered up, it seems to me the import of the clause is, that the State itself, in obedience to the Constitution, shall cause him to be delivered up. That is my judgment. I have always entertained that opinion, and I entertain it now. But when the subject, some years ago, was before the Supreme Court of the United States, the majority of the judges held that the power to cause fugitives from service to be delivered up was a power to be exercised under the authority of this Government.[25] I do not know, on the whole, that it may not have been a fortunate decision. My habit is to respect the result of judicial deliberations and the

solemnity of judicial decisions. As it now stands, the business of seeing that these fugitives are delivered up resides in the power of Congress and the national judicature, and my friend at the head of the Judiciary Committee [26] has a bill on the subject now before the Senate, which, with some amendments to it, I propose to support, with all its provisions, to the fullest extent. And I desire to call the attention of all sober-minded men at the North, of all conscientious men, of all men who are not carried away by some fanatical idea or some false impression, to their constitutional obligations. I put it to all the sober and sound minds at the North as a question of morals and a question of conscience. What right have they, in their legislative capacity, or any other capacity, to endeavor to get round this Constitution, or to embarrass the free exercise of the rights secured by the Constitution, to the person whose slaves escape from them? None at all; none at all. Neither in the forum of conscience, nor before the face of the Constitution, are they, in my opinion, justified in such an attempt. Of course it is a matter for their consideration. They probably, in the excitement of the times, have not stopped to consider this. They have fol-

lowed what seemed to be the current of thought and of motives, as the occasion arose, and they have neglected to investigate fully the real question, and to consider their constitutional obligations; which, I am sure, if they did consider, they would fulfil with alacrity.[27] I repeat, therefore, sir, that here is a well-founded ground of complaint against the North, which ought to be removed, which is now in the power of the different departments of this government to remove; which calls for the enactment of proper laws authorizing the judicature of this Government, in the several States, to do all that is necessary for the recapture of fugitive slaves and for their restoration to those who claim them. Wherever I go, and whenever I speak on the subject, and when I speak here I desire to speak to the whole North, I say that the South has been injured in this respect, and has a right to complain; and the North has been too careless of what I think the Constitution peremptorily and emphatically enjoins upon her as a duty.

Complaint has been made against certain resolutions that emanate from legislatures at the North, and are sent here to us, not only on the subject of slavery in this District, but some-

times recommending Congress to consider the means of abolishing slavery in the States. I should be sorry to be called upon to present any resolutions here which could not be referable to any committee or any power in Congress; and therefore I should be unwilling to receive from the legislature of Massachusetts any instructions to present resolutions expressive of any opinion whatever on the subject of slavery, as it exists at the present moment in the States, for two reasons: because I do not consider that I, as her representative here, have any thing to do with it. It has become, in my opinion, quite too common; and if the legislatures of the States do not like that opinion, they have a great deal more power to put it down than I have to uphold it; it has become, in my opinion, quite too common a practice for the State legislatures to present resolutions here on all subjects and to instruct us on all subjects. There is no public man that requires instruction more than I do, or who requires information more than I do, or desires it more heartily; but I do not like to have it in too imperative a shape. * * *[28]

Then, sir, there are the Abolition societies, of which I am unwilling to speak, but in regard

to which I have very clear notions and opinions. I do not think them useful. I think their operations for the last twenty years have produced nothing good or valuable. At the same time, I believe thousands of their members to be honest and good men, perfectly well-meaning men. They have excited feelings; they think they must do something for the cause of liberty; and, in their sphere of action, they do not see what else they can do than to contribute to an abolition press, or an abolition society, or to pay an abolition lecturer. I do not mean to impute gross motives even to the leaders of these societies, but I am not blind to the consequences of their proceedings. I cannot but see what mischief their interference with the South has produced. And is it not plain to every man? Let any gentleman who entertains doubts on this point, recur to the debates in the Virginia House of Delegates in 1832, and he will see with what freedom a proposition made by Mr. Jefferson Randolph, for the gradual abolition of slavery was discussed in that body.[29] Every one spoke of slavery as he thought; very ignominous and disparaging names and epithets were applied to it. The debates in the House of Delegates on

that occasion, I believe were all published. They were read by every colored man who could read, and to those who could not read, those debates were read by others. At that time Virginia was not unwilling or afraid to discuss this question, and to let that part of her population know as much of the discussion as they could learn. That was in 1832. As has been said by the honorable member from South Carolina, these abolition societies commenced their course of action in 1835. It is said, I do not know how true it may be, that they sent incendiary publications into the slave States; at any rate, they attempted to arouse, and did arouse, a very strong feeling; in other words, they created great agitation in the North against Southern slavery. Well, what was the result? The bonds of the slaves were bound more firmly than before, their rivets were more strongly fastened.[30] Public opinion, which in Virginia had begun to be exhibited against slavery, and was opening out for the discussion of the question, drew back and shut itself up in its castle. I wish to know whether anybody in Virginia can now talk openly, as Mr. Randolph, Governor McDowel, and others talked in 1832, and sent their remarks to the

press? We all know the fact, and we all know the cause; and every thing that these agitating people have done has been, not to enlarge, but to restrain, not to set free, but to bind faster, the slave population of the South. * * *[51]

There are also complaints of the North against the South. I need not go over them particularly. The first and gravest is, that the North adopted the Constitution, recognizing the existence of slavery in the States, and recognizing the right, to a certain extent, of the representation of slaves in Congress, under a state of sentiment and expectation which does not now exist; and that by events, by circumstances, by the eagerness of the South to acquire territory and extend her slave population, the North finds itself, in regard to the relative influence of the South and the North, of the free States and the slave States, where it never did expect to find itself when they agreed to the compact of the Constitution. They complain, therefore, that, instead of slavery being regarded as an evil, as it was then, an evil which all hoped would be extinguished gradually, it is now regarded by the South as an institution to be cherished, and preserved, and extended; an institution which the South has

already extended to the utmost of her power by the acquisition of new territory.

Well, then, passing from that, everybody in the North reads; and everybody reads whatsoever the newspapers contain; and the newspapers, some of them, especially those presses to which I have alluded, are careful to spread about among the people every reproachful sentiment uttered by any Southern man bearing at all against the North; every thing that is calculated to exasperate and to alienate; and there are many such things, as everybody will admit, from the South, or from portions of it, which are disseminated among the reading people; and they do exasperate, and alienate, and produce a most mischievous effect upon the public mind at the North. Sir, I would not notice things of this sort appearing in obscure quarters; but one thing has occurred in this debate which struck me very forcibly. An honorable member from Louisiana[32] addressed us the other day on this subject. I suppose there is not a more amiable and worthy gentleman in this chamber, nor a gentleman who would be more slow to give offence to any body, and he did not mean in his remarks to give offence. But what did he say? Why,

sir, he took pains to run a contrast between the slaves of the South and the laboring people of the North, giving the preference, in all points of condition, and comfort, and happiness to the slaves of the South. The honorable member, doubtless, did not suppose that he gave any offence, or did any injustice. He was merely expressing his opinion. But does he know how remarks of that sort will be received by the laboring people of the North? Why, who are the laboring people of the North? They are the whole North. They are the people who till their own farms with their own hands; freeholders, educated men, independent men. Let me say, sir, that five sixths of the whole property of the North is in the hands of the laborers of the North;[88] they cultivate their farms, they educate their children, they provide the means of independence. If they are not freeholders, they earn wages; these wages accumulate, are turned into capital, into new freeholds, and small capitalists are created. Such is the case, and such the course of things, among the industrious and frugal. And what can these people think when so respectable and worthy a gentleman as the member from Louisiana undertakes to

prove that the absolute ignorance and the abject slavery of the South are more in conformity with the high purposes and destiny of immortal, rational, human beings, than the educated, the independent free labor of the North ?

There is a more tangible and irritating cause of grievance at the North. Free blacks are constantly employed in the vessels of the North, generally as cooks or stewards. When the vessel arrives at a southern port, these free colored men are taken on shore, by the police or municipal authority, imprisoned, and kept in prison till the vessel is again ready to sail. This is not only irritating, but exceedingly unjustifiable and oppressive. Mr. Hoar's mission, some time ago to South Carolina, was a well-intended effort to remove this cause of complaint. The North thinks such imprisonments illegal and unconstitutional; and as the cases occur constantly and frequently they regard it as a grievance.[84]

Now, sir, so far as any of these grievances have their foundation in matters of law, they can be redressed, and ought to be redressed; and so far as they have their foundation in matters of opinion, in sentiment, in mutual crimination and recrimination, all that we can

do is to endeavor to allay the agitation, and cultivate a better feeling and more fraternal sentiments between the South and the North.

Mr. President, I should much prefer to have heard from every member on this floor declarations of opinion that this Union could never be dissolved, than the declaration of opinion by anybody, that in any case, under the pressure of any circumstances, such a dissolution was possible. I hear with distress and anguish the word "secession," especially when it falls from the lips of those who are patriotic, and known to the country, and known all over the world for their political services. Secession! Peaceable secession! Sir, your eyes and mine are never destined to see that miracle. The dismemberment of this vast country without convulsion! The breaking up of the fountains of the great deep without ruffling the surface! Who is so foolish—I beg everybody's pardon—as to expect to see any such thing? Sir, he who sees these States, now revolving in harmony around a common centre, and expects to see them quit their places and fly off without convulsion, may look the next hour to see the heavenly bodies rush from their spheres, and jostle against each other in the realms of space,

without causing the wreck of the universe. There can be no such thing as a peaceable secession. Peaceable secession is an utter impossibility. Is the great Constitution under which we live, covering this whole country, is it to be thawed and melted away by secession, as the snows on the mountain melt under the influence of a vernal sun, disappear almost unobserved, and run off? No, sir! No, sir! I will not state what might produce the disruption of the Union; but, sir, I see as plainly as I can see the sun in heaven what that disruption itself must produce; I see that it must produce war, and such a war as I will not describe, *in its twofold character.*

Peaceable secession! Peaceable secession! The concurrent agreement of all the members of this great Republic to separate! A voluntary separation, with alimony on one side and on the other. Why, what would be the result? Where is the line to be drawn? What States are to secede? What is to remain American? What am I to be? An American no longer? Am I to become a sectional man, a local man, a separatist, with no country in common with the gentlemen who sit around me here, or who fill the other house of Con-

gress? Heaven forbid! Where is the flag of the Republic to remain? Where is the eagle still to tower? or is he to cower, and shrink, and fall to the ground? Why, sir, our ancestors, our fathers and our grandfathers, those of them that are yet living amongst us with prolonged lives, would rebuke and reproach us; and our children and our grandchildren would cry out shame upon us, if we of this generation should dishonor these ensigns of the power of the Government and the harmony of that Union which is every day felt among us with so much joy and gratitude. What is to become of the army? What is to become of the navy? What is to become of the public lands? How is each of the thirty States to defend itself? I know, although the idea has not been stated distinctly, there is to be, or it is supposed possible that there will be, a Southern Confederacy. I do not mean, when I allude to this statement, that any one seriously contemplates such a state of things. I do not mean to say that it is true, but I have heard it suggested elsewhere, that the idea has been entertained, that, after the dissolution of this Union, a Southern Confederacy might be formed. I am sorry, sir, that it has ever been thought of, talked of, in the

wildest flights of human imagination. But the idea, so far as it exists, must be of a separation, assigning the slave States to one side, and the free States to the other. Sir, I may express myself too strongly, perhaps, but there are impossibilities in the natural as well as in the physical world, and I hold the idea of the separation of these States, those that are free to form one government, and those that are slave-holding to form another, as such an impossibility. We could not separate the States by any such line, if we were to draw it. We could not sit down here to-day and draw a line of separation that would satisfy any five men in the country. There are natural causes that would keep and tie us together, and there are social and domestic relations which we could not break if we would, and which we should not if we could.

Sir, nobody can look over the face of this country at the present moment, nobody can see where its population is the most dense and growing, without being ready to admit, and compelled to admit, that erelong the strength of America will be in the Valley of the Mississippi. Well, now, sir, I beg to inquire what the wildest enthusiast has to say on the possi-

bility of cutting that river in two, and leaving free States at its source and on its branches, and slave States down near its mouth, each forming a separate government? Pray, sir, let me say to the people of this country, that these things are worthy of their pondering and of their consideration. Here, sir, are five millions of freemen in the free States north of the river Ohio. Can anybody suppose that this population can be severed, by a line that divides them from the territory of a foreign and alien government, down somewhere, the Lord knows where, upon the lower banks of the Mississippi? What would become of Missouri? Will she join the *arrondissement* of the slave States? Shall the man from the Yellowstone and the Platte be connected, in the new republic, with the man who lives on the southern extremity of the Cape of Florida? Sir, I am ashamed to pursue this line of remark. I dislike it, I have an utter disgust for it. I would rather hear of natural blasts and mildews, war, pestilence, and famine, than to hear gentlemen talk of secession. To break up this great Government! to dismember this glorious country! to astonish Europe with an act of folly such as Europe for two centuries has never beheld in

any government or any people! No, sir! no, sir! There will be no secession! Gentlemen are not serious when they talk of secession.

Sir, I hear there is to be a convention held at Nashville. I am bound to believe that if worthy gentlemen meet at Nashville in convention, their object will be to adopt conciliatory counsels; to advise the South to forbearance and moderation, and to advise the North to forbearance and moderation; and to inculcate principles of brotherly love and affection, and attachment to the Constitution of the country as it now is. I believe, if the convention meet at all, it will be for this purpose; for certainly, if they meet for any purpose hostile to the Union, they have been singularly inappropriate in their selection of a place. I remember, sir, that, when the treaty of Amiens was concluded between France and England, a sturdy Englishman and a distinguished orator, who regarded the conditions of the peace as ignominious to England, said in the House of Commons, that if King William could know the terms of that treaty, he would turn in his coffin! Let me commend this saying to Mr. Windham, in all its emphasis and in all its force, to any persons who shall meet at Nash-

ville for the purpose of concerting measures for the overthrow of this Union over the bones of Andrew Jackson. * * *[35]

And now, Mr. President, instead of speaking of the possibility or utility of secession, instead of dwelling in those caverns of darkness, instead of groping with those ideas so full of all that is horrid and horrible, let us come out into the light of the day; let us enjoy the fresh air of Liberty and Union; let us cherish those hopes which belong to us; let us devote ourselves to those great objects that are fit for our consideration and our action; let us raise our conceptions to the magnitude and the importance of the duties that devolve upon us; let our comprehension be as broad as the country for which we act, our aspirations as high as its certain destiny; let us not be pigmies in a case that calls for men. Never did there devolve on any generation of men higher trusts than now devolve upon us, for the preservation of this Constitution and the harmony and peace of all who are destined to live under it. Let us make our generation one of the strongest and brightest links in that golden chain which is destined, I fondly believe, to grapple the people of all the States to this Constitution for ages to

come. We have a great, popular, Constitutional Government, guarded by law and by judicature, and defended by the affections of the whole people. No monarchical throne presses these States together, no iron chain of military power encircles them; they live and stand under a Government popular in its form, representative in its character, founded upon principles of equality, and so constructed, we hope, as to last forever. In all its history it has been beneficent; it has trodden down no man's liberty; it has crushed no State. Its daily respiration is liberty and patriotism; its yet youthful veins are full of enterprise, courage, and honorable love of glory and renown. Large before, the country has now, by recent events, become vastly larger. This Republic now extends, with a vast breadth across the whole continent. The two great seas of the world wash the one and the other shore. We realize, on a mighty scale, the beautiful description of the ornamental border of the buckler of Achilles:

> "Now, the broad shield complete, the artist crowned
> With his last hand, and poured the ocean round;
> In living silver seemed the waves to roll,
> And beat the buckler's verge, and bound the whole." [36]

HENRY CLAY,*

OF KENTUCKY.[1]

(BORN 1777, DIED 1852.)

ON THE COMPROMISE OF 1850; UNITED STATES SENATE, JULY 22, 1850.[2]

MR. PRESIDENT:

In the progress of this debate it has been again and again argued that perfect tranquillity reigns throughout the country, and that there is no disturbance threatening its peace, endangering its safety, but that which was produced by busy, restless politicians. It has been maintained that the surface of the public mind is perfectly smooth and undisturbed by a single billow. I most heartily wish I could concur in this picture of general tranquillity that has been drawn upon both sides of the Senate. I am no alarmist; nor, I thank God, at the advanced age at which His providence has been pleased to allow me to reach, am I very easily alarmed by any human event; but I totally

* For notes on Clay, see Appendix, p. 407.

misread the signs of the times, if there be that state of profound peace and quiet, that absence of all just cause of apprehension of future danger to this confederacy, which appears to be entertained by some other senators. Mr. President, all the tendencies of the times, I lament to say, are toward disquietude, if not more fatal consequences. When before, in the midst of profound peace with all the nations of the earth, have we seen a convention,[3] representing a considerable portion of one great part of the Republic, meet to deliberate about measures of future safety in connection with great interests of that quarter of the country? When before have we seen, not one, but more—some half a dozen legislative bodies solemnly resolving that if any one of these measures—the admission of California, the adoption of the Wilmot proviso, the abolition of slavery in the District of Columbia—should be adopted by Congress, measures of an extreme character, for the safety of the great interests to which I refer, in a particular section of the country, would be resorted to? For years, this subject of the abolition of slavery, even within this District of Columbia, small as is the number of slaves here, has been a source of constant irritation and disquiet. So

of the subject of the recovery of fugitive slaves who have escaped from their lawful owners: not a mere border contest, as has been supposed—although there, undoubtedly, it has given rise to more irritation than in other portions of the Union—but everywhere throughout the slave-holding country it has been felt as a great evil, a great wrong which required the intervention of congressional power. But these two subjects, unpleasant as has been the agitation to which they have given rise, are nothing in comparison to those which have sprung out of the acquisitions recently made from the Republic of Mexico. These are not only great and leading causes of just apprehension as respects the future, but all the minor circumstances of the day intimate danger ahead, whatever may be its final issue and consequence. * * *[4]

Mr. President, I will not dwell upon other concomitant causes, all having the same tendency, and all well calculated to awaken, to arouse us—if, as I hope the fact is, we are all of us sincerely desirous of preserving this Union—to rouse us to dangers which really exist, without underrating them upon the one hand, or magnifying them upon the other. * * *[5]

It has been objected against this measure

that it is a compromise. It has been said that it is a compromise of principle, or of a principle. Mr. President, what is a compromise? It is a work of mutual concession—an agreement in which there are reciprocal stipulations—a work in which, for the sake of peace and concord, one party abates his extreme demands in consideration of an abatement of extreme demands by the other party: it is a measure of mutual concession—a measure of mutual sacrifice. Undoubtedly, Mr. President, in all such measures of compromise, one party would be very glad to get what he wants, and reject what he does not desire, but which the other party wants. But when he comes to reflect that, from the nature of the Government and its operations, and from those with whom he is dealing, it is necessary upon his part, in order to secure what he wants, to grant something to the other side, he should be reconciled to the concession which he has made, in consequence of the concession which he is to receive, if there is no great principle involved, such as a violation of the Constitution of the United States. I admit that such a compromise as that ought never to be sanctioned or adopted. But I now call upon any senator in his place to point out

from the beginning to the end, from California to New Mexico, a solitary provision in this bill which is violative of the Constitution of the United States.

Sir, adjustments in the shape of compromise may be made without producing any such consequences as have been apprehended. There may be a mutual forbearance. You forbear on your side to insist upon the application of the restriction denominated the Wilmot proviso. Is there any violation of principle there? The most that can be said, even assuming the power to pass the Wilmot proviso, which is denied, is that there is a forbearance to exercise, not a violation of, the power to pass the proviso. So, upon the other hand, if there was a power in the Constitution of the United States authorizing the establishment of slavery in any of the Territories—a power, however, which is controverted by a large portion of this Senate—if there was a power under the Constitution to establish slavery, the forbearance to exercise that power is no violation of the Constitution, any more than the Constitution is violated by a forbearance to exercise numerous powers, that might be specified, that are granted in the Constitution, and that remain dormant until they

come to be exercised by the proper legislative authorities. It is said that the bill presents the state of coercion—that members are coerced, in order to get what they want, to vote for that which they disapprove. Why, sir, what coercion is there? * * * Can it be said upon the part of our Northern friends, because they have not got the Wilmot proviso incorporated in the territorial part of the bill, that they are coerced—wanting California, as they do, so much—to vote for the bill, if they do vote for it? Sir, they might have imitated the noble example of my friend (Senator Cooper, of Pennsylvania), from that State upon whose devotion to this Union I place one of my greatest reliances for its preservation. What was the course of my friend upon this subject of the Wilmot proviso? He voted for it; and he could go back to his constituents and say, as all of you could go back and say to your constituents, if you chose to do so—"We wanted the Wilmot proviso in the bill; we tried to get it in; but the majority of the Senate was against it." The question then came up whether we should lose California, which has got an interdiction in her constitution, which, in point of value and duration, is worth a thou-

sand Wilmot provisos; we were induced, as my honorable friend would say, to take the bill and the whole of it together, although we were disappointed in our votes with respect to the Wilmot proviso—to take it, whatever omissions may have been made, on account of the superior amount of good it contains. * * *[7]

Not the reception of the treaty of peace negotiated at Ghent, nor any other event which has occurred during my progress in public life, ever gave such unbounded and universal satisfaction as the settlement of the Missouri compromise. We may argue from like causes like effects. Then, indeed, there was great excitement. Then, indeed, all the legislatures of the North called out for the exclusion of Missouri, and all the legislatures of the South called out for her admission as a State. Then, as now, the country was agitated like the ocean in the midst of a turbulent storm. But now, more than then, has this agitation been increased. Now, more than then, are the dangers which exist, if the controversy remains unsettled, more aggravated and more to be dreaded. The idea of disunion was then scarcely a low whisper. Now, it has become a familar language in certain portions of the country. The public

mind and the public heart are becoming familiarized with that most dangerous and fatal of all events—the disunion of the States. People begin to contend that this is not so bad a thing as they had supposed. Like the progress in all human affairs, as we approach danger it disappears, it diminishes in our conception, and we no longer regard it with that awful apprehension of consequences that we did before we came into contact with it. Everywhere now there is a state of things, a degree of alarm and apprehension, and determination to fight, as they regard it, against the aggressions of the North. That did not so demonstrate itself at the period of the Missouri compromise. It was followed, in consequence of the adoption of the measure which settled the difficulty of Missouri, by peace, harmony, and tranquillity. So, now, I infer, from the greater amount of agitation, from the greater amount of danger, that, if you adopt the measures under consideration, they, too, will be followed by the same amount of contentment, satisfaction, peace, and tranquillity, which ensued after the Missouri compromise. * * *[8]

The responsibility of this great measure passes from the hands of the committee, and

from my hands. They know, and I know, that it is an awful and tremendous responsibility. I hope that you will meet it with a just conception and a true appreciation of its magnitude, and the magnitude of the consequences that may ensue from your decision one way or the other. The alternatives, I fear, which the measure presents, are concord and increased discord; a servile civil war, originating in its causes on the lower Rio Grande, and terminating possibly in its consequences on the upper Rio Grande in the Santa Fé country, or the restoration of harmony and fraternal kindness. I believe from the bottom of my soul, that the measure is the reunion of this Union. I believe it is the dove of peace, which, taking its aërial flight from the dome of the Capitol, carries the glad tidings of assured peace and restored harmony to all the remotest extremities of this distracted land. I believe that it will be attended with all these beneficent effects. And now let us discard all resentment, all passions, all petty jealousies, all personal desires, all love of place, all hankerings after the gilded crumbs which fall from the table of power. Let us forget popular fears, from whatever quarter they may spring. Let us go to the limpid fountain of unadulter-

ated patriotism, and, performing a solemn lustration, return divested of all selfish, sinister, and sordid impurities, and think alone of our God, our country, our consciences, and our glorious Union—that Union without which we shall be torn into hostile fragments, and sooner or later become the victims of military despotism, or foreign domination.'

Mr. President, what is an individual man? An atom, almost invisible without a magnifying glass—a mere speck upon the surface of the immense universe; not a second in time, compared to immeasurable, never-beginning, and never-ending eternity; a drop of water in the great deep, which evaporates and is borne off by the winds; a grain of sand, which is soon gathered to the dust from which it sprung. Shall a being so small, so petty, so fleeting, so evanescent, oppose itself to the onward march of a great nation, which is to subsist for ages and ages to come; oppose itself to that long line of posterity which, issuing from our loins, will endure during the existence of the world? Forbid it, God. Let us look to our country and our cause, elevate ourselves to the dignity of pure and disinterested patriots, and save our country from all impending dangers. What if, in the

march of this nation to greatness and power, we should be buried beneath the wheels that propel it onward! What are we—what is any man—worth who is not ready and willing to sacrifice himself for the benefit of his country when it is necessary? * * *[10]

If this Union shall become separated, new unions, new confederacies will arise. And with respect to this, if there be any—I hope there is no one in the Senate—before whose imagination is flitting the idea of a great Southern Confederacy to take possession of the Balize and the mouth of the Mississippi, I say in my place never! *never!* NEVER! will we who occupy the broad waters of the Mississippi and its upper tributaries consent that any foreign flag shall float at the Balize or upon the turrets of the Crescent City—NEVER! NEVER! I call upon all the South. Sir, we have had hard words, bitter words, bitter thoughts, unpleasant feelings toward each other in the progress of this great measure. Let us forget them. Let us sacrifice these feelings. Let us go to the altar of our country and swear, as the oath was taken of old, that we will stand by her; that we will support her; that we will uphold her Constitution; that we will preserve her Union; and

that we will pass this great, comprehensive, and healing system of measures, which will hush all the jarring elements, and bring peace and tranquillity to our homes.

Let me, Mr. President, in conclusion, say that the most disastrous consequences would occur, in my opinion, were we to go home, doing nothing to satisfy and tranquillize the country upon these great questions. What will be the judgment of mankind, what the judgment of that portion of mankind who are looking upon the progress of this scheme of self-government as being that which holds the highest hopes and expectations of ameliorating the condition of mankind—what will their judgment be? Will not all the monarchs of the Old World pronounce our glorious Republic a disgraceful failure? What will be the judgment of our constituents, when we return to them and they ask us: "How have you left your country? Is all quiet—all happy? Are all the seeds of distraction or division crushed and dissipated?" And, sir, when you come into the bosom of your family, when you come to converse with the partner of your fortunes, of your happiness, and of your sorrows, and when in the midst of the common offspring of

both of you, she asks you: "Is there any danger of civil war? Is there any danger of the torch being applied to any portion of the country? Have you settled the questions which you have been so long discussing and deliberating upon at Washington? Is all peace and all quiet?" what response, Mr. President, can you make to that wife of your choice and those children with whom you have been blessed by God? Will you go home and leave all in disorder and confusion—all unsettled—all open? The contentions and agitations of the past will be increased and augmented by the agitations resulting from our neglect to decide them. Sir, we shall stand condemned by all human judgment below, and of that above it is not for me to speak. We shall stand condemned in our own consciences, by our own constituents, and by our own country. The measure may be defeated. I have been aware that its passage for many days was not absolutely certain. From the first to the last, I hoped and believed it would pass, because from the first to the last I believed it was founded on the principles of just and righteous concession of mutual conciliation. I believe that it deals unjustly by no part of the Republic; that it saves their honor,

and, as far as it is dependent upon Congress, saves the interests of all quarters of the country. But, sir, I have known that the decision of its fate depended upon four or five votes in the Senate of the United States, whose ultimate judgment we could not count upon the one side or the other with absolute certainty. Its fate is now committed to the Senate, and to those five or six votes to which I have referred. It may be defeated. It is possible that, for the chastisement of our sins and transgressions, the rod of Providence may be still applied to us, may be still suspended over us. But, if defeated, it will be a triumph of ultraism and impracticability—a triumph of a most extraordinary conjunction of extremes ; a victory won by abolitionism ; a victory achieved by freesoilism ; a victory of discord and agitation over peace and tranquillity ; and I pray to Almighty God that it may not, in consequence of the inauspicious result, lead to the most unhappy and disastrous consequences to our beloved country.

MR. BARNWELL :—It is not my intention to reply to the argument of the Senator from Kentucky, but there were expressions used by him not a little disrespectful to a friend whom I hold very dear. * * * It is true that his politi-

cal opinions differ very widely from those of the Senator from Kentucky. It may be true, that he, with many great statesmen, may believe that the Wilmot proviso is a grievance to be resisted "to the utmost extremity" by those whose rights it destroys and whose honor it degrades. It is true that he may believe * * * that the admission of California will be the passing of the Wilmot proviso, when we here in Congress give vitality to an act otherwise totally dead, and by our legislation exclude slaveholders from that whole broad territory on the Pacific; and, entertaining this opinion, he may have declared that the contingency will then have occurred which will, in the judgment of most of the slave-holding States, as expressed by their resolutions, justify resistance as to an intolerable aggression. If he does entertain and has expressed such sentiments, he is not to be held up as peculiarly a disunionist. Allow me to say, in reference to this matter, I regret that you have brought it about, but it is true that this epithet "disunionist" is likely soon to have very little terror in it in the South. Words do not make things. "Rebel" was designed as a very odious term when applied by those who would have trampled on the rights of our an-

cestors, but I believe that the expression became not an ungrateful one to the ears of those who resisted them. It was not the lowest term of abuse to call those who were conscious that they were struggling against oppression; and let me assure gentlemen that the term disunionist is rapidly assuming at the South the meaning which rebel took when it was baptized in the blood of Warren at Bunker Hill, and illustrated by the gallantry of Jasper at Fort Moultrie. * * *

MR. CLAY:—Mr. President, I said nothing with respect to the character of Mr. Rhett, for I might as well name him. I know him personally, and have some respect for him. But, if he pronounced the sentiment attributed to him —of raising the standard of disunion and of resistance to the common government, whatever he has been, if he follows up that declaration by corresponding overt acts, he will be a *traitor*, and I hope he will meet the fate of a traitor.[11]

THE PRESIDENT:—The Chair will be under the necessity of ordering the gallery to be cleared if there is again the slightest interruption. He has once already given warning that he is under the necessity of keeping order. The Senate chamber is not a theatre.

MR. CLAY:—Mr. President, I have heard with pain and regret a confirmation of the remark I made, that the sentiment of disunion is becoming familiar. I hope it is confined to South Carolina. I do not regard as my duty what the honorable Senator seems to regard as his. If Kentucky to-morrow unfurls the banner of resistance unjustly, I never will fight under that banner. I owe a paramount allegiance to the whole Union—a subordinate one to my own State. When my State is right—when it has a cause for resistance—when tyranny, and wrong, and oppression insufferable arise, I will then share her fortunes; but if she summons me to the battle-field, or to support her in any cause which is unjust, against the Union, never, *never* will I engage with her in such cause.[13]

WENDELL PHILLIPS,*

OF MASSACHUSETTS.

(BORN 1811, DIED 1884.)

ON THE PHILOSOPHY OF THE ABOLITION MOVEMENT, BEFORE THE MASSACHUSETTS ANTI-SLAVERY SOCIETY, AT BOSTON, JANUARY 27, 1853.

Mr. CHAIRMAN:

I have to present, from the business committee, the following resolution:

Resolved; That the object of this society is now, as it has always been, to convince our countrymen, by arguments addressed to their hearts and consciences, that slave-holding is a heinous crime, and that the duty, safety, and interest of all concerned demand its immediate abolition without expatriation.

I wish, Mr. Chairman, to notice some objections that have been made to our course ever since Mr. Garrison began his career, and which have been lately urged again, with considerable force and emphasis, in the columns of the Lon-

* For notes on Phillips, see Appendix, p. 366.

don *Leader*, the able organ of a very respectable and influential class in England. * * * The charges to which I refer are these: That, in dealing with slave-holders and their apologists, we indulge in fierce denunciations, instead of appealing to their reason and common sense by plain statements and fair argument; that we might have won the sympathies and support of the nation, if we would have submitted to argue this question with a manly patience; but, instead of this, we have outraged the feelings of the community by attacks, unjust and unnecessarily severe, on its most valued institutions, and gratified our spleen by indiscriminate abuse of leading men, who were often honest in their intentions, however mistaken in their views; that we have utterly neglected the ample means that lay around us to convert the nation, submitted to no discipline, formed no plan, been guided by no foresight, but hurried on in childish, reckless, blind, and hot-headed zeal,—bigots in the narrowness of our views, and fanatics in our blind fury of invective and malignant judgment of other men's motives.

There are some who come upon our platform, and give us the aid of names and reputations less burdened than ours with popular odium,

who are perpetually urging us to exercise charity in our judgments of those about us, and to consent to argue these questions. These men are ever parading their wish to draw a line between themselves and us, because *they must be permitted* to wait,—to trust more to reason than feeling,—to indulge a generous charity,—to rely on the sure influence of simple truth, uttered in love, etc., etc. I reject with scorn all these implications that *our* judgments are uncharitable,—that *we* are lacking in patience,—that *we* have any other dependence than on the simple truth, spoken with Christian frankness, yet with Christian love. These lectures, to which you, sir, and all of us, have so often listened, would be impertinent, if they were not rather ridiculous for the gross ignorance they betray of the community, of the cause, and of the whole course of its friends.

The article in the *Leader* to which I refer is signed "ION," and may be found in the *Liberator* of December 17, 1852. * * *[4] "Ion" quotes Mr Garrison's original declaration in the *Liberator*: "I am aware that many object to the severity of my language; but is there not cause for severity? I *will* be as harsh as truth and as uncompromising as justice. I am in

earnest,—I will not equivocate,—I will not excuse,—I will not retreat a single inch,—AND I WILL BE HEARD. It is *pretended* that I am retarding the cause of emancipation by the coarseness of my invective and the precipitancy of my measures. *The charge is not true.* On this question, my influence, humble as it is, is felt at this moment to a considerable extent, and shall be felt in coming years, not perniciously, but beneficially; not as a curse, but as a blessing; and posterity will bear testimony that I was right. I desire to thank God that He enables me to disregard 'the fear of man which bringeth a snare,' and to speak His truth in its simplicity and power." * * *

"Ion's" charges are the old ones, that we Abolitionists are hurting our own cause; that, instead of waiting for the community to come up to our views, and endeavoring to remove prejudice and enlighten ignorance by patient explanation and fair argument, we fall at once, like children, to abusing every thing and everybody; that we imagine zeal will supply the place of common sense; that we have never shown any sagacity in adapting our means to our ends; have never studied the national character, or attempted to make use of the

materials which lay all about us to influence public opinion, but by blind, childish, obstinate fury and indiscriminate denunciation, have become "honestly impotent, and conscientious hinderances."

I claim, before you who know the true state of the case, I claim for the antislavery movement with which this society is identified, that, looking back over its whole course, and considering the men connected with it in the mass, it has been marked by sound judgment, unerring foresight, the most sagacious adaptation of means to ends, the strictest self-discipline, the most thorough research, and an amount of patient and manly argument addressed to the conscience and intellect of the nation, such as no other cause of the kind, in England or this country, has ever offered. I claim, also, that its course has been marked by a cheerful surrender of all individual claims to merit or leadership,—the most cordial welcoming of the slightest effort, of every honest attempt, to lighten or to break the chain of the slave. I need not waste time by repeating the superfluous confession that we are men, and therefore do not claim to be perfect. Neither would I be understood as denying that we use denuncia-

tion, and ridicule, and every other weapon that the human mind knows. We must plead guilty, if there be guilt in not knowing how to separate the sin from the sinner. With all the fondness for abstractions attributed to us, we are not yet capable of that. We are fighting a momentous battle at desperate odds,—one against a thousand. Every weapon that ability or ignorance, wit, wealth, prejudice, or fashion can command, is pointed against us. The guns are shotted to their lips. The arrows are poisoned. Fighting against such an array, we cannot afford to confine ourselves to any one weapon. The cause is not ours, so that we might, rightfully, postpone or put in peril the victory by moderating our demands, stifling our convictions, or filing down our rebukes, to gratify any sickly taste of our own, or to spare the delicate nerves of our neighbor. Our clients are three millions of Christian slaves, standing dumb suppliants at the threshold of the Christian world. They have no voice but ours to utter their complaints, or to demand justice. The press, the pulpit, the wealth, the literature, the prejudices, the political arrangements, the present self-interest of the country, are all against us. God has given us no weapon but

the truth, faithfully uttered, and addressed, with the old prophets' directness, to the conscience of the individual sinner. The elements which control public opinion and mould the masses are against us. We can but pick off here and there a man from the triumphant majority. We have facts for those who think, arguments for those who reason; but he who cannot be reasoned out of his prejudices must be laughed out of them; he who cannot be argued out of his selfishness must be shamed out of it by the mirror of his hateful self held up relentlessly before his eyes. We live in a land where every man makes broad his phylactery, inscribing thereon, "All men are created equal,"—"God hath made of one blood all nations of men." It seems to us that in such a land there must be, on this question of slavery, sluggards to be awakened, as well as doubters to be convinced. Many more, we verily believe, of the first than of the last. There are far more dead hearts to be quickened, than confused intellects to be cleared up,—more dumb dogs[6] to be made to speak, than doubting consciences to be enlightened. We have use, then, sometimes, for something beside argument.

What is the denunciation with which we are charged? It is endeavoring, in our faltering human speech, to declare the enormity of the sin of making merchandize of men,—of separating husband and wife,—taking the infant from its mother and selling the daughter to prostitution,—of a professedly Christian nation denying, by statute, the Bible to every sixth man and woman of its population, and making it illegal for "two or three" to meet together, except a white man be present! What is this harsh criticism of motives with which we are charged? It is simply holding the intelligent and deliberate actor responsible for the character and consequences of his acts. Is there any thing inherently wrong in such denunciation of such criticism? This we may claim,—we have never judged a man but out of his own mouth. We have seldom, if ever, held him to account, except for acts of which he and his own friends were proud. All that we ask the world and thoughtful men to note are the principles and deeds on which the American pulpit and American public men plume themselves. We always allow our opponents to paint their own pictures. Our humble duty is to stand by and assure the spectators that what they would

take for a knave or a hypocrite is really, in American estimation, a Doctor of Divinity or a Secretary of State.

The South is one great brothel, where half a million of women are flogged to prostitution, or, worse still, are degraded to believe it honorable. The public squares of half our great cities echo to the wail of families torn asunder at the auction-block; no one of our fair rivers that has not closed over the negro seeking in death a refuge from a life too wretched to bear; thousands of fugitives skulk along our highways, afraid to tell their names, and trembling at the sight of a human being; free men are kidnapped in our streets, to be plunged into that hell of slavery; and now and then one, as if by miracle, after long years returns to make men aghast with his tale. The press says, "It is all right"; and the pulpit cries, "Amen." They print the Bible in every tongue in which man utters his prayers; and they get the money to do so by agreeing never to give the book, in the language our mothers taught us, to any negro, free or bond, south of Mason and Dixon's line. The press says, "It is all right"; and the pulpit cries, "Amen." The slave lifts up his imploring eyes, and sees in

every face but ours the face of an enemy. Prove to me now that harsh rebuke, indignant denunciation, scathing sarcasm, and pitiless ridicule are wholly and always unjustifiable; else we dare not, in so desperate a case, throw away any weapon which ever broke up the crust of an ignorant prejudice, roused a slumbering conscience, shamed a proud sinner, or changed in any way the conduct of a human being. Our aim is to alter public opinion. Did we live in a market, our talk should be of dollars and cents, and we would seek to prove only that slavery was an unprofitable investment. Were the nation one great, pure church, we would sit down and reason of "righteousness, temperance, and judgment to come." Had slavery fortified itself in a college, we would load our cannons with cold facts, and wing our arrows with arguments. But we happen to live in the world,—the world made up of thought and impulse, of self-conceit and self-interest, of weak men and wicked. To conquer, we must reach all. Our object is not to make every man a Christian or a philosopher, but to induce every one to aid in the abolition of slavery. We expect to accomplish our object long before the nation is made over into saints or elevated into

philosophers. To change public opinion, we use the very tools by which it was formed. That is, all such as an honest man may touch.

All this I am not only ready to allow, but I should be ashamed to think of the slave, or to look into the face of my fellow-man, if it were otherwise. It is the only thing which justifies us to our own consciences, and makes us able to say we have done, or at least tried to do, our duty.

So far, however you distrust my philosophy, you will not doubt my statements. That we have denounced and rebuked with unsparing fidelity will not be denied. Have we not also addressed ourselves to that other duty, of arguing our question thoroughly?—of using due discretion and fair sagacity in endeavoring to promote our cause? Yes, we have. Every statement we have made has been doubted. Every principle we have laid down has been denied by overwhelming majorities against us. No one step has ever been gained but by the most laborious research and the most exhausting argument. And no question has ever, since Revolutionary days, been so thoroughly investigated or argued here, as that of slavery. Of that research and that argument, of the whole

of it, the old-fashioned, fanatical, crazy Garrisonian antislavery movement has been the author. From this band of men has proceeded every important argument or idea which has been broached on the antislavery question from 1830 to the present time. I am well aware of the extent of the claim I make. I recognize, as fully as any one can, the ability of the new laborers, the eloquence and genius with which they have recommended this cause to the nation, and flashed conviction home on the conscience of the community. I do not mean, either, to assert that they have in every instance borrowed from our treasury their facts and arguments. Left to themselves, they would probably have looked up the one and originated the other. As a matter of fact, however, they have generally made use of the materials collected to their hands. * * *[7] When once brought fully into the struggle, they have found it necessary to adopt the same means, to rely on the same arguments, to hold up the same men and the same measures to public reprobation, with the same bold rebuke and unsparing invective that we have used. All their conciliatory bearing, their painstaking moderation, their constant and anxious endeavor to draw a broad line

between their camp and ours, have been thrown away. Just so far as they have been effective laborers, they have found, as we have, their hands against every man, and every man's hand against them. The most experienced of them are ready to acknowledge that our plan has been wise, our course efficient, and that our unpopularity is no fault of ours, but flows necessarily and unavoidably from our position. "I should suspect," says old Fuller, "that his preaching had no salt in it, if no galled horse did wince." Our friends find, after all, that men do not so much hate us as the truth we utter and the light we bring. They find that the community are not the honest seekers after truth which they fancied, but selfish politicians and sectarian bigots, who shiver, like Alexander's butler, whenever the sun shines on them. Experience has driven these new laborers back to our method. We have no quarrel with them —would not steal one wreath of their laurels. All we claim is, that, if they are to be complimented as prudent, moderate, Christian, sagacious, statesmanlike reformers, we deserve the same praise; for they have done nothing that we, in our measure, did not attempt before.

I claim this, that the cause, in its recent as-

pect, has put on nothing but timidity. It has taken to itself no new weapons of recent years; it has become more compromising,—that is all! It has become neither more persuasive, more earnest, more Christian, more charitable, nor more effective than for the twenty years preceding. Mr. Hale, the head of the Free Soil movement, after a career in the Senate that would do honor to any man,—after a six years' course which entitles him to the respect and confidence of the antislavery public, can put his name, within the last month, to an appeal from the city of Washington, signed by a Houston and a Cass, for a monument to be raised to Henry Clay! If that be the test of charity and courtesy, we cannot give it to the world. Some of the leaders of the Free Soil party of Massachusetts, after exhausting the whole capacity of our language to paint the treachery of Daniel Webster to the cause of liberty, and the evil they thought he was able and seeking to do,—after that, could feel it in their hearts to parade themselves in the funeral procession got up to do him honor! In this we allow we cannot follow them. The deference which every gentleman owes to the proprieties of social life, that self-respect and regard to

consistency which is every man's duty,—these, if no deeper feelings, will ever prevent us from giving such proofs of this newly invented Christian courtesy. We do not play politics, antislavery is no half-jest with us; it is a terrible earnest, with life or death, worse than life or death, on the issue. It is no lawsuit, where it matters not to the good feeling of opposing counsel which way the verdict goes, and where advocates can shake hands after the decision as pleasantly as before. When we think of such a man as Henry Clay, his long life, his mighty influence cast always into the scale against the slave, of that irresistible fascination with which he moulded every one to his will; when we remember that, his conscience acknowledging the justice of our cause, and his heart open on every other side to the gentlest impulses, he could sacrifice so remorselessly his convictions and the welfare of millions to his low ambition; when we think how the slave trembled at the sound of his voice, and that, from a multitude of breaking hearts there went up nothing but gratitude to God when it pleased him to call that great sinner from this world, we cannot find it in our hearts, we could not shape our lips to ask any man to do him honor. No

amount of eloquence, no sheen of official position, no loud grief of partisan friends, would ever lead us to ask monuments or walk in fine processions for pirates; and the sectarian zeal or selfish ambition which gives up, deliberately and in full knowledge of the facts, three million of human beings to hopeless ignorance, daily robbery, systematic prostitution, and murder, which the law is neither able nor undertakes to prevent or avenge, is more monstrous, in our eyes, than the love of gold which takes a score of lives with merciful quickness on the high seas. Haynau[9] on the Danube is no more hateful to us than Haynau on the Potomac. Why give mobs to one and monuments to the other?

If these things be necessary to courtesy, I cannot claim that we are courteous. We seek only to be honest men, and speak the same of the dead as of the living. If the grave that hides their bodies could swallow also the evil they have done and the example they leave, we might enjoy at least the luxury of forgetting them. But the evil that men do lives after them, and example acquires tenfold authority when it speaks from the grave. History, also, is to be written. How shall a feeble

minority, without weight or influence in the country, with no jury of millions to appeal to, —denounced, vilified, and contemned,—how shall we make way against the overwhelming weight of some colossal reputation, if we do not turn from the idolatrous present, and appeal to the human race? saying to your idols of to-day: "Here we are defeated; but we will write our judgment with the iron pen of a century to come, and it shall never be forgotten, if we can help it, that you were false in your generation to the claims of the slave!" * * *[10]

We are weak here,—out-talked, out-voted. You load our names with infamy, and shout us down. But our words bide their time. We warn the living that we have terrible memories, and their sins are never to be forgotten. We will gibbet the name of every apostate so black and high that his children's children shall blush to bear it. Yet we bear no malice,—cherish no resentment. We thank God that the love of fame, "that last infirmity of noble minds," is shared by the ignoble. In our necessity, we seize this weapon in the slave's behalf, and teach caution to the living by meting out relentless justice to the dead. * * *[11] These, Mr. Chairman, are the reasons why we take

care that "the memory of the wicked shall rot." [12]

I have claimed that the antislavery cause has, from the first, been ably and dispassionately argued, every objection candidly examined, and every difficulty or doubt anywhere honestly entertained treated with respect. Let me glance at the literature of the cause, and try not so much, in a brief hour, to prove this assertion, as to point out the sources from which any one may satisfy himself of its truth.

I will begin with certainly the ablest and perhaps the most honest statesman who has ever touched the slave question. Any one who will examine John Quincy Adams' speech on Texas, in 1838, will see that he was only seconding the full and able exposure of the Texas plot, prepared by Benjamin Lundy, to one of whose pamphlets Dr. Channing, in his "Letter to Henry Clay," has confessed his obligation. Every one acquainted with those years will allow that the North owes its earliest knowledge and first awakening on that subject to Mr. Lundy, who made long journeys and devoted years to the investigation. His labors have this attestation, that they quickened the zeal

and strengthened the hands of such men as Adams and Channing. I have been told that Mr. Lundy prepared a brief for Mr. Adams, and furnished him the materials for his speech on Texas.[13]

Look next at the right of petition. Long before any member of Congress had opened his mouth in its defence, the Abolition presses and lecturers had examined and defended the limits of this right with profound historical research and eminent constitutional ability. So thoroughly had the work been done, that all classes of the people had made up their minds about it long before any speaker of eminence had touched it in Congress. The politicians were little aware of this. When Mr. Adams threw himself so gallantly into the breach, it is said he wrote anxiously home to know whether he would be supported in Massachusetts, little aware of the outburst of popular gratitude which the northern breeze was even then bringing him, deep and cordial enough to wipe away the old grudge Massachusetts had borne him so long.[14] Mr. Adams himself was only in favor of receiving the petitions, and advised to refuse their prayer, which was the abolition of slavery in the District of Columbia. He doubted the

power of Congress to abolish. His doubts were examined by Mr. William Goodell, in two letters of most acute logic, and of masterly ability. If Mr. Adams still retained his doubts, it is certain at least that he never expressed them afterward. When Mr. Clay paraded the same objections, the whole question of the power of Congress over the District was treated by Theodore D. Weld in the fullest manner, and with the widest research,—indeed, leaving nothing to be added: an argument which Dr. Channing characterized as "demonstration," and pronounced the essay "one of the ablest pamphlets from the American press." No answer was ever attempted. The best proof of its ability is that no one since has presumed to doubt the power. Lawyers and statesmen have tacitly settled down into its full acknowledgment.

The influence of the Colonization Society on the welfare of the colored race was the first question our movement encountered. To the close logic, eloquent appeals, and fully sustained charges of Mr. Garrison's letters on that subject no answer was ever made. Judge Jay followed with a work full and able, establishing every charge by the most patient in-

vestigation of facts. It is not too much to say of these two volumes, that they left the Colonization Society hopeless at the North. It dares never show its face before the people, and only lingers in some few nooks of sectarian pride, so secluded from the influence of present ideas as to be almost fossil in their character.

The practical working of the slave system, the slave laws, the treatment of slaves, their food, the duration of their lives, their ignorance and moral condition, and the influence of Southern public opinion on their fate, have been spread out in a detail and with a fulness of evidence which no subject has ever received before in this country. Witness the words of Phelps, Bourne, Rankin, Grimke, the *Anti-slavery Record*, and, above all, that encyclopædia of facts and storehouse of arguments, the *Thousand Witnesses* of Mr. Theodore D. Weld. He also prepared that full and valuable tract for the World's Convention called *Slavery and the Internal Slave-Trade in the United States*, published in London in 1841. Unique in antislavery literature is Mrs. Child's *Appeal*, one of the ablest of our weapons, and one of the finest efforts of her rare genius.

The *Princeton Review*, I believe, first chal-

lenged the Abolitionists to an investigation of the teachings of the Bible on slavery. That field had been somewhat broken by our English predecessors. But in England the pro-slavery party had been soon shamed out of the attempt to drag the Bible into their service, and hence the discussion there had been short and somewhat superficial. The pro-slavery side of the question has been eagerly sustained by theological reviews and doctors of divinity without number, from the half-way and timid faltering of Wayland up to the unblushing and melancholy recklessness of Stuart. The argument on the other side has come wholly from the Abolitionists; for neither Dr. Hague nor Dr. Barnes can be said to have added any thing to the wide research, critical acumen, and comprehensive views of Theodore D. Weld, Beriah Green, J. G. Fee, and the old work of Duncan.

On the constitutional questions which have at various times arisen,—the citizenship of the colored man, the soundness of the "Prigg" decision,[15] the constitutionality of the old Fugitive Slave Law, the true construction of the slave-surrender clause,—nothing has been added, either in the way of fact or argument, to the works of Jay, Weld, Alvan Stewart, E. G. Lor-

ing, S. E. Sewall, Richard Hildreth, W. I. Bowditch, the masterly essays of the *Emancipator* at New York and the *Liberator* at Boston, and the various addresses of the Massachusetts and American Societies for the last twenty years. The idea of the antislavery character of the Constitution,—the opiate with which Free Soil quiets its conscience for voting under a pro-slavery government,—I heard first suggested by Mr. Garrison in 1838. It was elaborately argued that year in all our antislavery gatherings, both here and in New York, and sustained with great ability by Alvan Stewart, and in part by T. D. Weld. The antislavery construction of the Constitution was ably argued in 1836, in the *Antislavery Magazine*, by Rev. Samuel J. May, one of the very first to seek the side of Mr. Garrison, and pledge to the slave his life and efforts,—a pledge which thirty years of devoted labors have redeemed. If it has either merit or truth, they are due to no legal learning recently added to our ranks, but to some of the old and well-known pioneers. This claim has since received the fullest investigation from Mr. Lysander Spooner, who has urged it with all his unrivalled ingenuity, laborious research, and close logic. He writes as a lawyer, and

has no wish, I believe, to be ranked with any class of anti-slavery men.

The influence of slavery on our Government has received the profoundest philosophical investigation from the pen of Richard Hildreth, in his invaluable essay on *Despotism in America*,—a work which deserves a place by the side of the ablest political disquisitions of any age.

Even the vigorous mind of Rantoul, the ablest man, without doubt, of the Democratic party, and perhaps the ripest politician in New England, added little or nothing to the storehouse of antislavery argument. * * *[16] His speeches on our question, too short and too few, are remarkable for their compact statement, iron logic, bold denunciation, and the wonderful light thrown back upon our history. Yet how little do they present which was not familiar for years in our anti-slavery meetings! Look, too, at the last great effort of the idol of so many thousands,—Mr. Senator Sumner,—the discussion of a great national question,[17] of which it has been said that we must go back to Webster's reply to Hayne, and Fisher Ames on the Jay treaty, to find its equal in Congress,—praise which we might perhaps qualify, if

any adequate report were left us of some of the noble orations of Adams. No one can be blind to the skilful use he has made of his materials, the consummate ability with which he has marshalled them, and the radiant glow which his genius has thrown over all. Yet, with the exception of his reference to the antislavery debate in Congress in 1817, there is hardly a train of thought or argument, and no single fact in the whole speech, which has not been familiar in our meetings and essays for the last ten years. * * *[18]

The relations of the American Church to slavery, and the duties of private Christians, the whole casuistry of this portion of the question, so momentous among descendants of the Puritans,—have been discussed with great acuteness and rare common-sense by Messrs. Garrison, Goodell, Gerrit Smith, Pillsbury, and Foster. They have never attempted to judge the American Church by any standard except that which she has herself laid down,—never claimed that she should be perfect, but have contented themselves by demanding that she should be consistent. They have never judged her except out of her own mouth, and on facts asserted by her own presses and leaders. The

sundering of the Methodist and Baptist denominations, and the universal agitation of the religious world, are the best proof of the sagacity with which their measures have been chosen, the cogent arguments they have used, and the indisputable facts on which their criticisms have been founded. In nothing have the Abolitionists shown more sagacity or more thorough knowledge of their countrymen than in the course they have pursued in relation to the Church. None but a New-Englander can appreciate the power which church organizations wield over all who share the blood of the Puritans. The influence of each sect over its own members is overwhelming, often shutting out, or controlling, all other influences. We have Popes here, all the more dangerous because no triple crown puts you on your guard. * * *[19] In such a land, the Abolitionists early saw, that, for a moral question like theirs, only two paths lay open: to work through the Church; that failing, to join battle with it. Some tried long, like Luther, to be Protestants, and yet not come out of Catholicism; but their eyes were soon opened. Since then we have been convinced that, to come out from the Church, to hold her up as the bulwark of

slavery, and to make her shortcomings the main burden of our appeals to the religious sentiment of the community, was our first duty and best policy. This course alienated many friends, and was a subject of frequent rebuke from such men as Dr. Channing. But nothing has ever more strengthened the cause, or won it more influence; and it has had the healthiest effect on the Church itself. * * * [20]

Unable to command a wide circulation for our books and journals, we have been obliged to bring ourselves into close contact with the people, and to rely mainly on public addresses. These have been our most efficient instrumentality. For proof that these addresses have been full of pertinent facts, sound sense, and able arguments, we must necessarily point to results, and demand to be tried by our fruits. Within these last twenty years it has been very rare that any fact stated by our lecturers has been disproved, or any statement of theirs successfully impeached. And for evidence of the soundness, simplicity, and pertinency of their arguments we can only claim that our converts and co-laborers throughout the land have at least the reputation of being specially able "to give a reason for the faith that is in them."

I remember that when, in 1845, the present leaders of the Free Soil party, with Daniel Webster in their company, met to draw up the Anti-Texas Address of the Massachusetts Convention, they sent to Abolitionists for anti-slavery facts and history, for the remarkable testimonies of our Revolutionary great men which they wished to quote. When, many years ago, the Legislature of Massachusetts wished to send to Congress a resolution affirming the duty of immediate emancipation, the committee sent to William Lloyd Garrison to draw it up, and it stands now on our statute-book as he drafted it.

How vigilantly, how patiently, did we watch the Texas plot from its commencement! The politic South felt that its first move had been too bold, and thenceforward worked underground. For many a year men laughed at us for entertaining any apprehensions. It was impossible to rouse the North to its peril. David Lee Child was thought crazy because he would not believe there was no danger. His elaborate "Letters on Texas Annexation" are the ablest and most valuable contribution that has been made toward a history of the whole plot. Though we foresaw and proclaimed our

conviction that annexation would be, in the end, a fatal step for the South, we did not feel at liberty to relax our opposition, well knowing the vast increase of strength it would give, at first, to the slave power. I remember being one of a committee which waited on Abbott Lawrence, a year or so only before annexation, to ask his countenance to some general movement, without distinction of party, against the Texas scheme. He smiled at our fears, begged us to have no apprehensions; stating that his correspondence with leading men at Washington enabled him to assure us annexation was impossible, and that the South itself was determined to defeat the project. A short time after, Senators and Representatives from Texas took their seats in Congress!

Many of these services to the slave were done before I joined his cause. In thus referring to them, do not suppose me merely seeking occasion of eulogy on my predecessors and present co-laborers. I recall these things only to rebut the contemptuous criticism which some about us make the excuse for their past neglect of the movement, and in answer to "Ion's" representation of our course as reckless fanaticism, childish impatience, ut-

ter lack of good sense, and of our meetings as scenes only of excitement, of reckless and indiscriminate denunciation. I assert that every social, moral, economical, religious, political, and historical aspect of the question has been ably and patiently examined. And all this has been done with an industry and ability which have left little for the professional skill, scholarly culture, and historical learning of the new laborers to accomplish. If the people are still in doubt, it is from the inherent difficulty of the subject, or a hatred of light, not from want of it. * * *[21]

Sir, when a nation sets itself to do evil, and all its leading forces, wealth, party, and piety, join in the career, it is impossible but that those who offer a constant opposition should be hated and maligned, no matter how wise, cautious, and well planned their course may be. We are peculiar sufferers in this way. The community has come to hate its reproving Nathan so bitterly, that even those whom the relenting part of it are beginning to regard as standard-bearers of the antislavery host think it unwise to avow any connection or sympathy with him. I refer to some of the leaders of the political movement against slavery. They feel it to be

their mission to marshal and use as effectively as possible the present convictions of the people. They cannot afford to encumber themselves with the odium which twenty years of angry agitation have engendered in great sects sore from unsparing rebuke, parties galled by constant defeat, and leading men provoked by unexpected exposure. They are willing to confess, privately, that our movement produced theirs, and that its continued existence is the very breath of their life. But, at the same time, they would fain walk on the road without being soiled by too close contact with the rough pioneers who threw it up. They are wise and honorable, and their silence is very expressive.

When I speak of their eminent position and acknowledged ability, another thought strikes me. Who converted these men and their distinguished associates? It is said we have shown neither sagacity in plans, nor candor in discussion, nor ability. Who, then, or what converted Burlingame and Wilson, Sumner and Adams, Palfrey and Mann, Chase and Hale, and Phillips and Giddings? Who taught the *Christian Register*, the *Daily Advertiser*, and that class of prints, that there were such things as a

slave and a slave-holder in the land, and so gave them some more intelligent basis than their mere instincts to hate William Lloyd Garrison? What magic wand was it whose touch made the todying servility of the land start up the real demon that it was, and at the same time gathered into the slave's service the professional ability, ripe culture, and personal integrity which grace the Free Soil ranks? We never argue! These men, then, were converted by simple denunciation! They were all converted by the "hot," "reckless," "ranting," "bigoted," "fanatic" Garrison, who never troubled himself about facts, nor stopped to argue with an opponent, but straightway knocked him down! My old and valued friend, Mr. Sumner, often boasts that he was a reader of the *Liberator* before I was. Do not criticise too much the agency by which such men were converted. That blade has a double edge. Our reckless course, our empty rant, our fanaticism, has made Abolitionists of some of the best and ablest men in the land. We are inclined to go on, and see if, even with such poor tools, we cannot make some more. Antislavery zeal and the roused conscience of the "godless come-outers" made the trembling South demand the

Fugitive Slave Law, and the Fugitive Slave Law "provoked" Mrs. Stowe to the good work of "Uncle Tom." That is something! Let me say, in passing, that you will nowhere find an earlier or more generous appreciation, or more flowing eulogy, of these men and their labors, than in the columns of the *Liberator*. No one, however feeble, has ever peeped or muttered, in any quarter, that the vigilant eye of the *Pioneer* has not recognized him. He has stretched out the right hand of a most cordial welcome the moment any man's face was turned Zionward.

I do not mention these things to praise Mr. Garrison; I do not stand here for that purpose. You will not deny—if you do, I can prove it—that the movement of the Abolitionists converted these men. Their constituents were converted by it. The assault upon the right of petition, upon the right to print and speak of slavery, the denial of the right of Congress over the District, the annexation of Texas, the Fugitive Slave Law, were measures which the antislavery movement provoked, and the discussion of which has made all the Abolitionists we have. The antislavery cause, then, converted these men; it gave them a constituency; it gave

them an opportunity to speak, and it gave them a public to listen. The antislavery cause gave them their votes, got them their offices, furnished them their facts, gave them their audience. If you tell me they cherished all these principles in their own breasts before Mr. Garrison appeared, I can only say, if the anti-slavery movement did not give them their ideas, it surely gave the courage to utter them.

In such circumstances, is it not singular that the name of William Lloyd Garrison has never been pronounced on the floor of the United States Congress linked with any epithet but that of contempt! No one of those men who owe their ideas, their station, their audience, to him, have ever thought it worth their while to utter one word in grateful recognition of the power which called them into being. When obliged, by the course of their argument, to treat the question historically, they can go across the water to Clarkson and Wilberforce —yes, to a safe salt-water distance. As Daniel Webster, when he was talking to the farmers of Western New York, and wished to contrast slave labor and free labor, did not dare to compare New York with Virginia—sister States, under the same government, planted by the same

race, worshipping at the same altar, speaking the same language—identical in all respects, save that one in which he wished to seek the contrast; but no; he compared it with Cuba—the contrast was so close! Catholic—Protestant; Spanish—Saxon; despotism—municipal institutions; readers of Lope de Vega and of Shakespeare; mutterers of the Mass—children of the Bible! But Virginia is too near home! So is Garrison! One would have thought there was something in the human breast which would sometimes break through policy. These noble-hearted men whom I have named must surely have found quite irksome the constant practice of what Dr. Gardiner used to call "that despicable virtue, prudence."[22] One would have thought, when they heard that name spoken with contempt, their ready eloquence would have leaped from its scabbard to avenge even a word that threatened him with insult. But it never came—never! I do not say I blame them. Perhaps they thought they should serve the cause better by drawing a broad black line between themselves and him. Perhaps they thought the Devil could be cheated: I do not.

* * * * * * *[23]

Caution is not always good policy in a cause like ours. It is said that, when Napoleon saw the day going against him, he used to throw away all the rules of war, and trust himself to the hot impetuosity of his soldiers. The masses are governed more by impulse than conviction, and even were it not so, the convictions of most men are on our side, and this will surely appear, if we can only pierce the crust of their prejudice or indifference. I observe that our Free Soil friends never stir their audience so deeply as when some individual leaps beyond the platform, and strikes upon the very heart of the people. Men listen to discussions of laws and tactics with ominous patience. It is when Mr. Sumner, in Faneuil Hall, avows his determination to disobey the Fugitive Slave Law, and cries out: "I was a man before I was a Commissioner,"—when Mr. Giddings says of the fall of slavery, quoting Adams: "Let it come. If it must come in *blood*, yet I say let it come!" —that their associates on the platform are sure they are wrecking the party,—while many a heart beneath beats its first pulse of anti-slavery life.

These are brave words. When I compare them with the general tone of Free Soil men in

Congress, I distrust the atmosphere of Washington and of politics. These men move about, Sauls and Goliaths among us, taller by many a cubit. There they lose port and stature. Mr. Sumner's speech in the Senate unsays no part of his Faneuil Hall pledge. But, though discussing the same topic, no one would gather from any word or argument that the speaker ever took such ground as he did in Faneuil Hall. It is all through, the *law*, the *manner* of the surrender, not the surrender itself, of the slave, that he objects to. As my friend Mr. Pillsbury so forcibly says, so far as any thing in the speech shows, he puts the slave behind the jury trial, behind the *habeas corpus* act, and behind the new interpretation of the Constitution, and says to the slave claimant: "You must get through all these before you reach him; but, if you *can* get through all these, you may have him!" It was no tone like this which made the old Hall rock! Not if he got through twelve jury trials, and forty *habeas corpus* acts, and constitutions built high as yonder monument, would he permit so much as the shadow of a little finger of the slave claimant to touch the slave! At least so he was understood. * * * * Mr. Mann, in his speech of February

15, 1850, says: "*The States being separated*, I would as soon return my own brother or sister into bondage, as I would return a fugitive slave. Before God, and Christ, and all Christian men, they are my brothers and sisters." What a condition! From the lips, too, of a champion of the Higher Law! Whether the States be separate or united, neither my brother nor any other man's brother shall, with my consent, go back to bondage! So speaks the *heart* —Mr. Mann's version is that of the politician.

* * * * * * *[25]

This seems to me a very mistaken strain. Whenever slavery is banished from our national jurisdiction, it will be a momentous gain, a vast stride. But let us not mistake the halfway house for the end of the journey. I need not say that it matters not to Abolitionists under what special law slavery exists. Their battle lasts while it exists anywhere, and I doubt not Mr. Sumner and Mr. Giddings feel themselves enlisted for the whole war.[26] I will even suppose, what neither of these gentlemen states, that their plan includes not only that slavery shall be abolished in the District and Territories but that the slave basis of represen-

tation shall be struck from the Constitution, and the slave-surrender clause construed away. But even then does Mr. Giddings or Mr. Sumner really believe that slavery, existing in its full force in the States, "will cease to vex our national politics?" Can they point to any State where a powerful oligarchy, possessed of immense wealth, has ever existed without attempting to meddle in the government? Even now, does not manufacturing, banking, and commercial capital perpetually vex our politics? Why should not slave capital exert the same influence? Do they imagine that a hundred thousand men, possessed of two thousand millions of dollars, which they feel the spirit of the age is seeking to tear from their grasp, will not eagerly catch at all the support they can obtain by getting the control of the government? In a land where the dollar is almighty, "where the sin of not being rich is only atoned for by the effort to become so," do they doubt that such an oligarchy will generally succeed? Besides, banking and manufacturing stocks are not urged by despair to seek a controlling influence in politics. They know they are about equally safe, whichever party rules—that no party wishes to legislate their rights away. Slave

property knows that its being allowed to exist depends on its having the virtual control of the government.[27] Its constant presence in politics is dictated, therefore, by despair, as well as by the wish to secure fresh privileges. Money, however, is not the only strength of the slave power. That, indeed, were enough, in an age when capitalists are our feudal barons. But, though driven entirely from national shelter, the slave-holders would have the strength of old associations, and of peculiar laws in their own States, which give those States wholly into their hands. A weaker prestige, fewer privileges, and less comparative wealth, have enabled the British aristocracy to rule England for two centuries, though the root of their strength was cut at Naseby. It takes ages for deeply-rooted institutions to die; and driving slavery into the States will hardly be our Naseby. * * *[28]

And Mr. Sumner "knows no better aim, under the Constitution, than to bring back the government" to where it was in 1789! Has the voyage been so very honest and prosperous a one, in his opinion, that his only wish is to start again with the same ship, the same crew, and the same sailing orders? Grant all he claims as to the state of public opinion, the in-

tentions of leading men, and the form of our institutions at that period; still, with all these checks on wicked men, and helps to good ones, here we are, in 1853, according to his own showing, ruled by slavery, tainted to the core with slavery, and binding the infamous Fugitive Slave Law like an honorable frontlet on our brows. The more accurate and truthful his glowing picture of the public virtue of 1789, the stronger my argument. If even all those great patriots, and all that enthusiasm for justice and liberty, did not avail to keep us safe in such a Union, what will? In such desperate circumstances, can his statesmanship devise no better aim than to try the same experiment over again, under precisely the same conditions? What new guaranties does he propose to prevent the voyage from being again turned into a piratical slave-trading cruise? None! Have sixty years taught us nothing? In 1660, the English thought, in recalling Charles II., that the memory of that scaffold which had once darkened the windows of Whitehall would be guaranty enough for his good behavior. But, spite of the spectre, Charles II. repeated Charles I., and James outdid him. Wiser by this experience, when the nation in 1689 got

another chance, they trusted to no guaranties, but so arranged the very elements of their government that William III. could not repeat Charles I. Let us profit by the lesson. * * *[29]

If all I have said to you is untrue, if I have exaggerated, explain to me this fact. In 1831, Mr. Garrison commenced a paper advocating the doctrine of immediate emancipation. He had against him the thirty thousand churches and all the clergy of the country,—its wealth, its commerce, its press. In 1831, what was the state of things? There was the most entire ignorance and apathy on the slave question. If men knew of the existence of slavery, it was only as a part of picturesque Virginia life. No one preached, no one talked, no one wrote about it. No whisper of it stirred the surface of the political sea. The church heard of it occasionally, when some colonization agent asked funds to send the blacks to Africa. Old school-books tainted with some antislavery selections had passed out of use, and new ones were compiled to suit the times. Soon as any dissent from the prevailing faith appeared, every one set himself to crush it. The pulpits preached at it; the press denounced it; mobs tore down houses, threw presses into the fire

and the stream, and shot the editors; religious conventions tried to smother it; parties arrayed themselves against it. Daniel Webster boasted in the Senate, that he had never introduced the subject of slavery to that body, and never would. Mr. Clay, in 1839, makes a speech for the Presidency, in which he says, that to discuss the subject of slavery is moral treason, and that no man has a right to introduce the subject into Congress. Mr. Benton, in 1844, laid down his platform, and he not only denies the right, but asserts that he never has and never will discuss the subject. Yet Mr. Clay, from 1839 down to his death, hardly made a remarkable speech of any kind, except on slavery. Mr. Webster, having indulged now and then in a little easy rhetoric, as at Niblo's and elsewhere, opens his mouth in 1840, generously contributing his aid to both sides, and stops talking about it only when death closes his lips. Mr. Benton's six or eight speeches in the United States Senate have all been on the subject of slavery in the Southwestern section of the country, and form the basis of whatever claim he has to the character of a statesman, and he owes his seat in the next Congress somewhat, perhaps, to anti-slavery pretentions! The Whig and Demo-

cratic parties pledged themselves just as emphatically against the antislavery discussion, —against agitation and free speech. These men said: "It sha'n't be talked about; it won't be talked about!" These are *your statesmen!*—men who understand the present that is, and mould the future! The man who understands his own time, and whose genius moulds the future to his views, he is a statesman, is he not? These men devoted themselves to banks, to the tariff, to internal improvements, to constitutional and financial questions. They said to slavery: "Back! no entrance here! We pledge ourselves against you." And then there came up a little printer-boy, who whipped them into the traces, and made them talk, like Hotspur's starling, nothing BUT slavery. He scattered all these gigantic shadows,—tariff, bank, constitutional questions, financial questions; and slavery, like the colossal head in Walpole's romance, came up and filled the whole political horizon! Yet you must remember he is not a statesman! he is a "fanatic." He has no discipline,—Mr. "Ion" says so; he does not understand the "discipline that is essential to victory"! This man did not understand his own time, he did

not know what the future was to be,—he was not able to shape it—he had no "prudence,"—he had no "foresight"! Daniel Webster says, "I have never introduced this subject, and never will,"—and dies broken-hearted because he had not been able to talk enough about it! Benton says, "I will never speak of slavery,"—and lives to break with his party on this issue! Clay says it is "moral treason" to introduce the subject into Congress—and lives to see Congress turned into an antislavery debating society, to suit the purpose of one "too powerful individual." * * *[30] Remember who it was that said in 1831: "I am in earnest—I will not equivocate—I will not excuse—I will not retreat a single inch—*and I will be heard!*" That speaker has lived twenty-two years, and the complaint of twenty-three millions of people is, "Shall we never hear of any thing but slavery? * * *[31] Well, it is all HIS fault [pointing to Mr. Garrison]. * * *[32] It seems to me that such men may point to the present aspect of the nation, to their originally avowed purpose, to the pledges and efforts of all your great men against them, and then let you determine to which side the credit of sagacity and statesmanship belongs. Napoleon

busied himself at St. Helena in showing how Wellington ought to have conquered at Waterloo. The world has never got time to listen to the explanation. Sufficient for it that the allies entered Paris.

It may sound strange to some, this claim for Mr. Garrison of a profound statesmanship.[33] Men have heard him styled a mere fanatic so long that they are incompetent to judge him fairly. "The phrases men are accustomed," says Goethe, "to repeat incessantly, end by becoming convictions, and ossify the organs of intelligence." I cannot accept you, therefore, as my jury. I appeal from Festus to Cæsar, from the prejudice of our streets to the commonsense of the world, and to your children.

Every thoughtful and unprejudiced mind must see that such an evil as slavery will yield only to the most radical treatment. If you consider the work we have to do, you will not think us needlessly aggressive, or that we dig down unnecessarily deep in laying the foundations of our enterprise. A money power of two thousand millions of dollars, as the prices of slaves now range, held by a small body of able and desperate men; that body raised into a political aristocracy by special constitutional

provisions ; cotton, the product of slave labor, forming the basis of our whole foreign commerce, and the commercial class thus subsidized ; the press bought up, the pulpit reduced to vassalage, the heart of the common people chilled by a bitter prejudice against the black race ; our leading men bribed, by ambition, either to silence or open hostility ;—in such a land, on what shall an Abolitionist rely ? On a few cold prayers, mere lip-service, and never from the heart ? On a church resolution, hidden often in its records, and meant only as a decent cover for servility in daily practice ? On political parties, with their superficial influence at best, and seeking ordinarily only to use existing prejudices to the best advantage ? Slavery has deeper root here than any aristocratic institution has in Europe ; and politics is but the common pulse-beat, of which revolution is the fever-spasm. Yet we have seen European aristocracy survive storms which seemed to reach down to the primal strata of European life. Shall we, then, trust to mere politics, where even revolution has failed ? How shall the stream rise above its fountain ? Where shall our church organizations or parties get strength to attack their great parent and moulder, the

slave power? Shall the thing formed say to him that formed it, Why hast thou made me thus? The old jest of one who tried to lift himself in his own basket, is but a tame picture of the man who imagines that, by working solely through existing sects and parties, he can destroy slavery. Mechanics say nothing, but an earthquake strong enough to move all Egypt can bring down the pyramids.

Experience has confirmed these views. The Abolitionists who have acted on them have a "short method" with all unbelievers. They have but to point to their own success, in contrast with every other man's failure. To waken the nation to its real state, and chain it to the consideration of this one duty, is half the work. So much we have done. Slavery has been made the question of this generation. To startle the South to madness, so that every step she takes, in her blindness, is one step more toward ruin, is much. This we have done. Witness Texas and the Fugitive Slave Law.[34]

To have elaborated for the nation the only plan of redemption, pointed out the only exodus from this "sea of troubles," is much. This we claim to have done in our motto of IMMEDIATE, UNCONDITIONAL, EMANCIPATION ON

THE SOIL. The closer any statesmanlike mind looks into the question, the more favor our plan finds with it. The Christian asks fairly of the infidel, "If this religion be not from God, how do you explain its triumph, and the history of the first three centuries?" Our question is similar. If our agitation has not been wisely planned and conducted, explain for us the history of the last twenty years! Experience is a safe light to walk by, and he is not a rash man who expects success in future from the same means which have secured it in times past.

CHARLES SUMNER,*

OF MASSACHUSETTS.[1]

(BORN 1811, DIED 1874.)

ON THE REPEAL OF THE FUGITIVE SLAVE LAW— IN THE UNITED STATES SENATE, AUGUST 26, 1852.[2]

THURSDAY, 26TH AUGUST, 1852.—The Civil and Diplomatic Appropriation Bill being under consideration, the following amendment was moved by Mr. Hunter, of Virginia, on the recommendation of the Committee on Finance:

"That, where the ministerial officers of the United States have or shall incur extraordinary expense in executing the laws thereof, the payment of which is not specifically provided for, the President of the United States is authorized to allow the payment thereof, under the special taxation of the District or Circuit Court of the District in which the said services have been or

* For notes on Sumner, see Appendix, p. 420.

shall be rendered, to be paid from the appropriation for defraying the expenses of the Judiciary."

Mr. Sumner seized the opportunity for which he had been waiting, and at once moved the following amendment to the amendment:

"*Provided*, That no such allowance shall be authorized for any expenses incurred in executing the Act of September 18, 1850, for the surrender of fugitives from service or labor; which said Act is hereby repealed."

On this he took the floor, and spoke as follows:

MR. PRESIDENT,—

Here is a provision for extraordinary expense incurred in executing the laws of the United States. Extraordinary expenses! Sir, beneath these specious words lurks the very subject on which, by a solemn vote of this body, I was refused a hearing. Here it is; no longer open to the charge of being an "abstraction," but actually presented for practical legislation; not introduced by me, but by the Senator from Virginia (Mr. Hunter), on the recommendation of an important com-

mittee of the Senate; not brought forward weeks ago, when there was ample time for discussion, but only at this moment, without any reference to the late period of the session. The amendment which I offer proposes to remove one chief occasion of these extraordinary expenses. Beyond all controversy or cavil it is strictly in order. And now, at last, among these final, crowded days of our duties here, but at this earliest opportunity, I am to be heard,—not as a favor, but as a right. The graceful usages of this body may be abandoned, but the established privileges of debate cannot be abridged. Parliamentary courtesy may be forgotten, but parliamentary law must prevail. The subject is broadly before the Senate. By the blessing of God it shall be discussed.

Sir, a severe lawgiver of early Greece vainly sought to secure permanence for his imperfect institutions by providing that the citizen who at any time attempted their repeal or alteration should appear in the public assembly with a halter about his neck, ready to be drawn, if his proposition failed. A tyrannical spirit among us, in unconscious imitation of this antique and discarded barbarism, seeks to surround an offensive institution with similar safeguard.

In the existing distemper of the public mind, and at this present juncture, no man can enter upon the service which I now undertake, without personal responsibility, such as can be sustained only by that sense of duty which, under God, is always our best support. That personal responsibility I accept. Before the Senate and the country let me be held accountable for this act and for every word which I utter.

With me, Sir, there is no alternative. Painfully convinced of the unutterable wrong and woe of Slavery,—profoundly believing, that, according to the true spirit of the Constitution and the sentiments of the Fathers, it can find no place under our National Government,—that it is in every respect *sectional*, and in no respect *national*,—that it is always and everywhere creature and dependent of the *States*, and never anywhere creature or dependent of the *Nation*,—and that the *Nation* can never, by legislative or other act, impart to it any support, under the Constitution of the United States,—with these convictions I could not allow this session to reach its close without making or seizing an opportunity to declare myself openly against the usurpation, injustice, and cruelty of the late intolerable enactment

for the recovery of fugitive slaves. Full well I know, Sir, the difficulties of this discussion, arising from prejudices of opinion and from adverse conclusions strong and sincere as my own. Full well I know that I am in a small minority, with few here to whom I can look for sympathy or support. Full well I know that I must utter things unwelcome to many in this body, which I cannot do without pain. Full well I know that the institution of Slavery in our country, which I now proceed to consider, is as sensitive as it is powerful, possessing a power to shake the whole land, with a sensitiveness that shrinks and trembles at the touch. But while these things may properly prompt me to caution and reserve, they cannot change my duty, or my determination to perform it. For this I willingly forget myself and all personal consequences. The favor and good-will of my fellow-citizens, of my brethren of the Senate, Sir, grateful to me as they justly are, I am ready, if required, to sacrifice. Whatever I am or may be I freely offer to this cause.

Here allow, for one moment, a reference to myself and my position. Sir, I have never been a politician. The slave of principles, I call no party master. By sentiment, education,

and conviction a friend of Human Rights in their utmost expansion, I have ever most sincerely embraced the Democratic Idea,—not, indeed, as represented or professed by any party, but according to its real significance, as transfigured in the Declaration of Independence and in the injunctions of Christianity. In this idea I see no narrow advantage merely for individuals or classes, but the sovereignty of the people, and the greatest happiness of all secured by equal laws. Amidst the vicissitudes of public affairs I shall hold fast always to this idea, and to any political party which truly embraces it.

Party does not constrain me; nor is my independence lessened by any relations to the office which gives me a title to be heard on this floor. Here, Sir, I speak proudly. By no effort, by no desire of my own, I find myself a Senator of the United States. Never before have I held public office of any kind. With the ample opportunities of private life I was content. No tombstone for me could bear a fairer inscription than this: "Here lies one who, without the honors or emoluments of public station, did something for his fellowmen." From such simple aspirations I was taken away by the

free choice of my native Commonwealth, and placed at this responsible post of duty, without personal obligation of any kind, beyond what was implied in my life and published words. The earnest friends by whose confidence I was first designated asked nothing from me, and throughout the long conflict which ended in my election rejoiced in the position which I most carefully guarded. To all my language was uniform: that I did not desire to be brought forward; that I would do nothing to promote the result; that I had no pledges or promises to offer; that the office should seek me, and not I the office; and that it should find me in all respects an independent man, bound to no party and to no human being, but only, according to my best judgment, to act for the good of all. Again, Sir, I speak with pride, both for myself and others, when I add that these avowals found a sympathizing response. In this spirit I have come here, and in this spirit I shall speak to-day.

Rejoicing in my independence, and claiming nothing from party ties, I throw myself upon the candor and magnanimity of the Senate. I ask your attention; I trust not to abuse it. I may speak strongly, for I shall speak openly

and from the strength of my convictions. I may speak warmly, for I shall speak from the heart. But in no event can I forget the amenities which belong to debate, and which especially become this body. Slavery I must condemn with my whole soul; but here I need only borrow the language of slaveholders; nor would it accord with my habits or my sense of justice to exhibit them as the impersonation of the institution—Jefferson calls it the "enormity"—which they cherish. Of them I do not speak; but without fear and without favor, as without impeachment of any person, I assail this wrong. Again, Sir, I may err; but it will be with the Fathers. I plant myself on the ancient ways of the Republic, with its grandest names, its surest landmarks, and all its original altar-fires about me.

And now, on the very threshold, I encounter the objection, that there is a final settlement, in principle and substance, of the question of slavery, and that all discussion of it is closed. Both the old political parties, by formal resolutions, in recent conventions at Baltimore, have united in this declaration. On a subject which for years has agitated the public mind, which yet palpitates in every heart and burns on every

tongue, which in its immeasurable importance dwarfs all other subjects, which by its constant and gigantic presence throws a shadow across these halls, which at this very time calls for appropriations to meet extraordinary expenses it has caused, they impose the rule of silence. According to them, Sir, we may speak of everything except that alone which is most present in all our minds.

To this combined effort I might fitly reply, that, with flagrant inconsistency, it challenges the very discussion it pretends to forbid. Their very declaration, on the eve of an election, is, of course, submitted to the consideration and ratification of the people. Debate, inquiry, discussion, are the necessary consequence. Silence becomes impossible. Slavery, which you profess to banish from public attention, openly by your invitation enters every political meeting and every political convention. Nay, at this moment it stalks into this Senate, crying, like the daughters of the horseleech, "Give! give!"

But no unanimity of politicians can uphold the baseless assumption, that a law, or any conglomerate of laws, under the name of compromise, or howsoever called, is final. Nothing

can be plainer than this,—that by no parliamentary device or knot can any legislature tie the hands of a succeeding legislature, so as to prevent the full exercise of its constitutional powers. Each legislature, under a just sense of its responsibility, must judge for itself; and if it think proper, it may revise, or amend, or absolutely undo the work of any predecessor. The laws of the Medes and Persians are said proverbially to have been unalterable; but they stand forth in history as a single example where the true principles of all law have been so irrationally defied.

To make a law final, so as not to be reached by Congress, is, by mere legislation, to fasten a new provision on the Constitution. Nay, more; it gives to the law a character which the very Constitution does not possess. The wise Fathers did not treat the country as a Chinese foot, never to grow after infancy; but, anticipating progress, they declared expressly that their great Act is not final. According to the Constitution itself, there is not one of its existing provisions—not even that with regard to fugitives from labor—which may not at all times be reached by amendment, and thus be drawn into debate. This is rational and just.

Sir, nothing from man's hands, nor law, nor constitution, can be final. Truth alone is final.

Inconsistent and absurd, this effort is tyrannical also. The responsibility for the recent Slave Act, and for slavery everywhere within the jurisdiction of Congress, necessarily involves the right to discuss them. To separate these is impossible. Like the twenty-fifth rule of the House of Representatives against petitions on Slavery,—now repealed and dishonored,—the Compromise, as explained and urged, is a curtailment of the actual powers of legislation, and a perpetual denial of the indisputable principle, that the right to deliberate is coextensive with the responsibility for an act. To sustain Slavery it is now proposed to trample on *free speech*. In any country this would be grievous; but here, where the Constitution expressly provides against abridging freedom of speech, it is a special outrage. In vain do we condemn the despotisms of Europe, while we borrow the rigors with which they repress Liberty, and guard their own uncertain power. For myself, in no factious spirit, but solemnly and in loyalty to the Constitution, as a Senator of the United States, representing a free Commonwealth, I protest against this wrong.

On Slavery, as on every other subject, I claim the right to be heard. That right I cannot, I will not abandon. "Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties"; these are glowing words, flashed from the soul of John Milton in his struggles with English tyranny. With equal fervor they could be echoed now by every American not already a slave.

But, Sir, this effort is impotent as tyrannical. Convictions of the heart cannot be repressed. Utterances of conscience must be heard. They break forth with irrepressible might. As well attempt to check the tides of ocean, the currents of the Mississippi, or the rushing waters of Niagara. The discussion of Slavery will proceed, wherever two or three are gathered together,—by the fireside, on the highway, at the public meeting, in the church. The movement against Slavery is from the Everlasting Arm. Even now it is gathering its forces, soon to be confessed everywhere. It may not be felt yet in the high places of office and power, but all who can put their ears humbly to the ground will hear and comprehend its incessant and advancing tread.

The relations of the National Government to

Slavery, though plain and obvious, are constantly misunderstood. A popular belief at this moment makes Slavery a national institution, and of course renders its support a national duty. The extravagance of this error can hardly be surpassed. An institution which our fathers most carefully omitted to name in the Constitution, which, according to the debates in the Convention, they refused to cover with any "sanction," and which, at the original organization of the Government, was merely *sectional*, existing nowhere on the national territory, is now, above all other things, blazoned as national. Its supporters pride themselves as national. The old political parties, while upholding it, claim to be national. A National Whig is simply a Slavery Whig, and a National Democrat is simply a Slavery Democrat, in contradistinction to all who regard Slavery as a sectional institution, within the exclusive control of the States and with which the nation has nothing to do.

As Slavery assumes to be national, so, by an equally strange perversion, Freedom is degraded to be sectional, and all who uphold it, under the National Constitution, are made to share this same epithet. Honest efforts to secure its

blessings everywhere within the jurisdiction of Congress are scouted as sectional: and this cause, which the founders of our National Government had so much at heart, is called *Sectionalism.* These terms, now belonging to the common places of political speech, are adopted and misapplied by most persons without reflection. But here is the power of Slavery. According to a curious tradition of the French language, Louis XIV., the Grand Monarch, by an accidental error of speech, among supple courtiers, changed the gender of a noun. But slavery does more. It changes word for word. It teaches men to say *national* instead of *sectional*, and *sectional* instead of *national.*

Slavery national! Sir, this is a mistake and absurdity, fit to have a place in some new collection of Vulgar Errors, by some other Sir Thomas Browne, with the ancient, but exploded stories, that the toad has a gem in its head, and that ostriches digest iron. According to the true spirit of the Constitution, and the sentiments of the Fathers, *Slavery*, and not Freedom, is *sectional*, while Freedom, and not Slavery, is *national.* On this unanswerable proposition I take my stand, and here commences my argument.

The subject presents itself under two principal heads: First, *the true relations of the National Government to Slavery*, wherein it will appear that there is no national fountain from which Slavery can be derived, and no national power, under the Constitution, by which it can be supported. Enlightened by this general survey, we shall be prepared to consider, secondly, *the true nature of the provision for the rendition of fugitives from service*, and herein especially the unconstitutional and offensive legislation of Congress in pursuance thereof.

I.

And now for THE TRUE RELATIONS OF THE NATIONAL GOVERNMENT TO SLAVERY. These are readily apparent, if we do not neglect well-established principles.

If slavery be national, if there be any power in the National Government to withhold this institution,—as in the recent Slave Act,—it must be by virtue of the Constitution. Nor can it be by mere inference, implication, or conjecture. According to the uniform admission of courts and jurists in Europe, again and again promulgated in our country, slavery can

be derived only from clear and special recognition. "The state of Slavery," said Lord Mansfield, pronouncing judgment in the great case of Sommersett, "is of such a nature that it is incapable of being introduced on any reasons, moral or political, *but only by positive law*. . . . It is so odious, that *nothing can be suffered to support it but positive law*."

* * * * * * *[3]

Of course every power to uphold slavery must have an origin as distinct as that of Slavery itself. Every presumption must be as strong against such a power as against slavery. A power so peculiar and offensive, so hostile to reason, so repugnant to the law of Nature and the inborn rights of man,—which despoils its victim of the fruits of labor,—which substitutes concubinage for marriage,—which abrogates the relation of parent and child,—which, by denial of education, abases the intellect, prevents a true knowledge of God, and murders the very soul,—which, amidst a plausible physical comfort, degrades man, created in the divine image, to the state of a beast,—such a power, so eminent, so transcendent, so tyrannical, so unjust, can find no place in any system of government, unless by virtue of *positive sanc-*

tion. It can spring from no doubtful phrase. It must be declared by unambiguous words, incapable of a double sense.

* * * * * * *

Sir, such, briefly, are the rules of interpretation, which, as applied to the Constitution, fill it with the breath of freedom,—

"Driving far off each thing of sin and guilt."

To the *history and prevailing sentiments* of the times we may turn for further assurance. In the spirit of freedom the Constitution was formed. In this spirit our fathers always spoke and acted. In this spirit the National Government was first organized under Washington. And here I recall a scene, in itself a touchstone of the period, and an example for us, upon which we may look with pure national pride, while we learn anew the relations of the National Government to Slavery.

The Revolution was accomplished. The feeble Government of the Confederation passed away. The Constitution, slowly matured in a National Convention, discussed before the people, defended by masterly pens, was adopted. The Thirteen States stood forth a Nation, where was unity without consolidation, and diversity

without discord. The hopes of all were anxiously hanging upon the new order of things and the mighty procession of events. With signal unanimity Washington was chosen President. Leaving his home at Mount Vernon, he repaired to New York,—where the first Congress had commenced its session,— to assume his place as Chief of the Republic. On the 30th of April, 1789, the organization of the Government was completed by his inauguration. Entering the Senate Chamber, where the two Houses were assembled, he was informed that they awaited his readiness to receive the oath of office. Without delay, attended by the Senators and Representatives, with friends and men of mark gathered about him, he moved to the balcony in front of the edifice. A countless multitude, thronging the open ways, and eagerly watching this great espousal,

> "With reverence look on his majestic face,
> Proud to be less, but of his godlike race."

The oath was administered by the Chancellor of New York. At such time, and in such presence, beneath the unveiled heavens, Washington first took this vow upon his lips: "I do

solemnly swear that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Over the President, on this new occasion, floated the national flag, with its stripes of red and white, its stars on a field of blue. As his patriot eye rested upon the glowing ensign, what currents must have rushed swiftly through his soul. In the early days of the Revolution, in those darkest hours about Boston, after the Battle of Bunker Hill, and before the Declaration of Independence, the thirteen stripes had been first unfurled by him, as the emblem of Union among the Colonies for the sake of Freedom. By him, at that time, they had been named the Union Flag. Trial, struggle, and war were now ended, and the Union, which they first heralded, was unalterably established. To every beholder these memories, must have been full of pride and consolation. But, looking back upon the scene, there is one circumstance which, more than all its other associations, fills the soul,—more even than the suggestions of Union, which I prize so much. AT THIS MOMENT, WHEN WASHINGTON TOOK

HIS FIRST OATH TO SUPPORT THE CONSTITUTION OF THE UNITED STATES, THE NATIONAL ENSIGN, NOWHERE WITHIN THE NATIONAL TERRITORY, COVERED A SINGLE SLAVE. Then, indeed, was Slavery Sectional, and Freedom National.

On the sea an execrable piracy, the trade in slaves, to the national scandal, was still tolerated under the national flag. In the States, as a sectional institution, beneath the shelter of local laws, Slavery unhappily found a home. But in the only terrritories at this time belonging to the nation, the broad region of the Northwest, it was already made impossible, by the Ordinance of Freedom, even before the adoption of the Constitution. The District of Columbia, with its Fatal Dowry, was not yet acquired.

The government thus organized was Anti-slavery in character. Washington was a slaveholder, but it would be unjust to his memory not to say that he was an Abolitionist also. His opinions do not admit of question.

* * * * * * * [5]

By the side of Washington, as, standing beneath the national flag, he swore to support the Constitution, were illustrious men, whose

lives and recorded words now rise in judgment. There was John Adams, the Vice-President, great vindicator and final negotiator of our national independence, whose soul, flaming with Freedom, broke forth in the early declaration, that "consenting to Slavery is a sacrilegious breach of trust," and whose immitigable hostility to this wrong is immortal in his descendants. There was also a companion in arms and attached friend, of beautiful genius, the yet youthful and "incomparable" Hamilton,—fit companion in early glories and fame with that darling of English history, Sir Philip Sidney, to whom the latter epithet has been reserved,—who, as member of the Abolition Society of New York, had recently united in a solemn petition for those who, though "*free by the laws of God*, are held in Slavery *by the laws of this State*." There, too, was a noble spirit, of spotless virtue, the ornament of human nature, who, like the sun, ever held an unerring course,—John Jay. Filling the important post of Secretary for Foreign Affairs under the Confederation, he found time to organize the "Society for Promoting the Manumission of Slaves" in New York, and to act as its President, until, by the nomination of Washington, he became

Chief Justice of the United States. In his sight Slavery was an "iniquity," "a sin of crimson dye," against which ministers of the Gospel should testify, and which the Government should seek in every way to abolish. "Till America comes into this measure," he wrote, "her prayers to Heaven for liberty will be impious. This is a strong expression, but it is just. Were I in your legislature, I would prepare a bill for the purpose with great care, and I would never cease moving it till it became a law or I ceased to be a member." Such words as these, fitly coming from our leaders, belong to the true glories of the country :—

> "While we such precedents can boast at home,
> Keep thy Fabricius and thy Cato, Rome!"

They stood not alone. The convictions and earnest aspirations of the country were with them. At the North these were broad and general. At the South they found fervid utterance from slaveholders. By early and precocious efforts for "total emancipation," the author of the Declaration of Independence placed himself foremost among the Abolitionists of the land. In language now familiar to all, and which can never die, he perpetually de-

nounced Slavery. He exposed its pernicious influence upon master as well as slave, declared that the love of justice and the love of country pleaded equally for the slave, and that "the abolition of domestic slavery was the greatest object of desire." He believed that "the sacred side was gaining daily recruits," and confidently looked to the young for the accomplishment of this good work. In fitful sympathy with Jefferson was another honored son of Virginia, the Orator of Liberty, Patrick Henry, who, while confessing that he was a master of slaves, said: "I will not, I cannot justify it. However culpable my conduct, I will so far pay my devoir to virtue as to own the excellence and rectitude of her precepts, and lament my want of conformity to them." At this very period, in the Legislature of Maryland, on a bill for the relief of oppressed slaves, a young man, afterwards by consummate learning and forensic powers acknowledged head of the American bar, William Pinkney, in a speech of earnest, truthful eloquence,—better for his memory than even his professional fame,—branded Slavery as "iniquitous and most dishonorable," "founded in a disgraceful traffic," "its continuance as shameful as its origin," and he openly

declared, that "by the eternal principles of natural justice, no master in the State has a right to hold his slave in bondage for a single hour."

* * * * * * *

At the risk of repetition, but for the sake of clearness, review now this argument, and gather it together. Considering that Slavery is of such an offensive character that it can find sanction only in "positive law," and that it has no such "positive" sanction in the Constitution,—that the Constitution, according to its preamble, was ordained to "establish justice" and "secure the blessings of liberty,"—that, in the Convention which framed it, and also elsewhere at the time, it was declared not to sanction slavery,—that, according to the Declaration of Independence, and the Address of the Continental Congress, the nation was dedicated to "liberty," and the "rights of human nature,"—that, according to the principles of the common law, the Constitution must be interpreted openly, actively, and perpetually for freedom,—that, according to the decision of the Supreme Court, it acts upon slaves, *not as property*, but as PERSONS,—that, at the first organization of the national Government under Washington,

Slavery had no national favor, existed nowhere on the national territory, beneath the national flag, but was openly condemned by Nation, Church, Colleges, and Literature of the time,—and, finally, that, according to an amendment of the Constitution, the National Government can exercise only powers delegated to it, among which is none to support Slavery,—considering these things, Sir, it is impossible to avoid the single conclusion, that Slavery is in no respect a national institution, and that the Constitution nowhere upholds property in man.

There is one other special provision of the Constitution, which I have reserved to this stage, not so much from its superior importance, but because it fitly stands by itself. This alone, if practically applied, would carry Freedom to all within its influence. It is an amendment proposed by the First Congress, as follows:

"No *person* shall be deprived of life, *liberty*, or property, *without due process of law*."

Under this great ægis the liberty of every person within the national jurisdiction is unequivocally placed. I say every person. Of this there can be no question. The word "person"

in the Constitution embraces every human being within its sphere, whether Caucasian, Indian, or African, from the president to the slave. Show me a person within the national jurisdiction, and I confidently claim for him this protection, no matter what his condition or race or color. The natural meaning of the clause is clear, but a single fact of its history places it in the broad light of noon. As originally recommended by Virginia, North Carolina, and Rhode Island, it was restricted to the *freeman*. Its language was, "No *freeman* ought to be deprived of his life, *liberty*, or property, but by the law of the land." In rejecting this limitation, the authors of the amendment revealed their purpose, that no person, under the National Government, of whatever character, should be deprived of liberty without due process of law,—that is, without due presentment, indictment, or other judicial proceeding. But this amendment is nothing less than an express guaranty of Personal Liberty, and an express prohibition of its invasion anywhere, at least within the national jurisdiction.

Sir, apply these principles, and Slavery will again be as when Washington took his first

oath as President. The Union Flag of the Republic will become once more the flag of Freedom, and at all points within the national jurisdiction will refuse to cover a slave. Beneath its beneficent folds, wherever it is carried, on land or sea, slavery will disappear, like darkness under the arrows of the ascending sun,—like the Spirit of Evil before the Angel of the Lord.

In all national territories Slavery will be impossible.

On the high seas, under the national flag, Slavery will be impossible.

In the District of Columbia Slavery will instantly cease.

Inspired by these principles, Congress can give no sanction to Slavery by the admission of new slave States.

Nowhere under the Constitution can the Nation, by legislation or otherwise, support Slavery, hunt slaves, or hold property in man.

Such, sir, are my sincere convictions. According to the Constitution, as I understand it, in the light of the past and of its true principles, there is no other conclusion which is rational or tenable, which does not defy authoritative rules of interpretation, does not falsify

indisputable facts of history, does not affront the public opinion in which it had its birth, and does not dishonor the memory of the fathers. And yet politicians of the hour undertake to place these convictions under formal ban. The generous sentiments which filled the early patriots, and impressed upon the government they founded, as upon the coin they circulated, the image and superscription of LIBERTY, have lost their power. The slave-masters, few in number, amounting to not more than three hundred and fifty thousand, according to the recent census, have succeeded in dictating the policy of the National Government, and have written SLAVERY on its front. The change, which began in the desire for wealth, was aggravated by the desire for political predominance. Through Slavery the cotton crop increased with its enriching gains; through Slavery States became part of the slave power. And now an arrogant and unrelenting ostracism is applied, not only to all who express themselves against Slavery, but to every man unwilling to be its menial. A novel test for office is introduced, which would have excluded all the fathers of the Republic, —even Washington, Jefferson, and Franklin!

Yes, Sir! Startling it may be, but indisputable. Could these revered demigods of history once again descend upon earth and mingle in our affairs, not one of them could receive a nomination from the National Convention of either of the two old political parties! Out of the convictions of their hearts and the utterances of their lips against Slavery they would be condemned.

This single fact reveals the extent to which the National Government has departed from its true course and its great examples. For myself, I know no better aim under the Constitution than to bring the Government back to the precise position on this question it occupied on the auspicious morning of its first organization by Washington,—

> "Nunc retrorsum
> Vela dare, atque iterare cursus
> . . . . . relictos,"

that the sentiments of the Fathers may again prevail with our rulers, and the National Flag may nowhere shelter Slavery.

To such as count this aspiration unreasonable let me commend a renowned and life-giving precedent of English history. As early as

the days of Queen Elizabeth, a courtier boasted that the air of England was too pure for a slave to breathe, and the Common Law was said to forbid Slavery. And yet, in the face of this vaunt, kindred to that of our fathers, and so truly honorable, slaves were introduced from the West Indies. The custom of Slavery gradually prevailed. Its positive legality was affirmed, in professional opinions, by two eminent lawyers, Talbot and Yorke, each afterwards Lord Chancellor. It was also affirmed on the bench by the latter as Lord Hardwicke. England was already a Slave State. The following advertisement, copied from a London newspaper, *The Public Advertiser*, of November 22, 1769, shows that the journals there were disfigured as some of ours, even in the District of Columbia.

"To be sold, a black girl, the property of J. B., eleven years of age, who is extremely handy, works at her needle tolerably, and speaks English perfectly well; is of an excellent temper and willing disposition. Inquire of her owner at the Angel Inn, behind St. Clement's Church, in the Strand."

At last, in 1772, only three years after this advertisement, the single question of the legal-

ity of Slavery was presented to Lord Mansfield, on a writ of *habeas corpus*. A poor negro, named Sommersett, brought to England as a slave, became ill, and, with an inhumanity disgraceful even to Slavery, was turned adrift upon the world. Through the charity of an estimable man, the eminent Abolitionist, Granville Sharp, he was restored to health, when his unfeeling and avaricious master again claimed him as bondman. The claim was repelled. After elaborate and protracted discussion in Westminster Hall, marked by rarest learning and ability, Lord Mansfield, with discreditable reluctance, sullying his great judicial name, but in trembling obedience to the genius of the British Constitution, pronounced a decree which made the early boast a practical verity, and rendered Slavery forever impossible in England. More than fourteen thousand persons, at that time held as slaves, and breathing English air,—four times as many as are now found in this national metropolis,—stepped forth in the happiness and dignity of free men.

With this guiding example I cannot despair. The time will yet come when the boast of our fathers will be made a practical verity also, and Court or Congress, in the spirit of this British

judgment, will proudly declare that nowhere under the Constitution can man hold property in man. For the Republic such a decree will be the way of peace and safety. As Slavery is banished from the national jurisdiction, it will cease to vex our national politics. It may linger in the States as a local institution ; but it will no longer engender national animosities, when it no longer demands national support.

II.

From this general review of the relations of the National Government to Slavery, I pass to the consideration of THE TRUE NATURE OF THE PROVISION FOR THE RENDITION OF FUGITIVES FROM SERVICE, embracing an examination of this provision in the Constitution, and especially of the recent Act of Congress in pursuance thereof. As I begin this discussion, let me bespeak anew your candor. Not in prejudice, but in the light of history and of reason, we must consider this subject. The way will then be easy and the conclusion certain.

Much error arises from the exaggerated importance now attached to this provision, and from assumptions with regard to its origin and

primitive character. It is often asserted that it was suggested by some special difficulty, which had become practically and extensively felt, anterior to the Constitution. But this is one of the myths or fables with which the supporters of Slavery have surrounded their false god. In the articles of Confederation, while provision is made for the surrender of fugitive criminals, nothing is said of fugitive slaves or servants; and there is no evidence in any quarter, until after the National Convention, of hardship or solicitude on this account. No previous voice was heard to express desire for any provision on the subject. The story to the contrary is a modern fiction.

I put aside, as equally fabulous, the common saying, that this provision was one of the original compromises of the Constitution, and an essential condition of Union. Though sanctioned by eminent judicial opinions, it will be found that this statement is hastily made, without any support in the records of the Convention, the only authentic evidence of the compromises; nor will it be easy to find any authority for it in any contemporary document, speech, published letter, or pamphlet of any kind. It is true that there were compromises

at the formation of the Constitution, which were the subject of anxious debate; but this was not one of them.

There was a compromise between the small and large States, by which equality was secured to all the States in the Senate.

There was another compromise finally carried, under threats from the South, *on the motion of a New England member*, by which the Slave States are allowed Representatives according to the whole number of free persons and "three fifths of all other persons," thus securing political power on account of their slaves, in consideration that direct taxes should be apportioned in the same way. Direct taxes have been imposed at only four brief intervals. The political power has been constant, and at this moment sends twenty-one members to the other House.

There was a third compromise, not to be mentioned without shame. It was that hateful bargain by which Congress was restrained until 1808 from the prohibition of the foreign Slave-trade, thus securing, down to that period, toleration for crime. This was pertinaciously pressed by the South, even to the extent of absolute restriction on Congress. John Rutledge said:

"If the Convention thinks that North Carolina, South Carolina, and Georgia will ever agree to the Plan (the National Constitution), unless their right to import slaves be untouched, the expectation is vain. The people of those States will never be such fools as to give up so important an interest." Charles Pinckney said: "South Carolina can never receive the Plan, if it prohibits the slave-trade." Charles Cotesworth Pinckney "thought himself bound to declare candidly, that he did not think South Carolina would stop her importations of slaves in any short time." The effrontery of the slave-masters was matched by the sordidness of the Eastern members, who yielded again. Luther Martin, the eminent member of the Convention, in his contemporary address to the Legislature of Maryland, described the compromise. "I found," he said, "The Eastern States, notwithstanding their aversion to Slavery, were very willing to indulge the Southern States at least with a temporary liberty to prosecute the slave-trade, *provided the Southern States would in their turn gratify them by laying no restriction on navigation acts.*" The bargain was struck, and at this price the Southern States gained the detestable indulgence. At a sub-

sequent day Congress branded the slave-trade as piracy, and thus, by solemn legislative act, adjudged this compromise to be felonious and wicked.

Such are the three chief original compromises of the Constitution and essential conditions of Union. The case of fugitives from service is not of these. During the Convention it was not in any way associated with these. Nor is there any evidence from the records of this body, that the provision on this subject was regarded with any peculiar interest. As its absence from the Articles of Confederation had not been the occasion of solicitude or desire, anterior to the National Convention, so it did not enter into any of the original plans of the Constitution. It was introduced tardily, at a late period of the Convention, and adopted with very little and most casual discussion. A few facts show how utterly unfounded are recent assumptions.

The National Convention was convoked to meet at Philadelphia on the second Monday in May, 1787. Several members appeared at this time, but, a majority of the States not being represented, those present adjourned from day to day until the 25th, when the Convention was

organized by the choice of George Washington as President. On the 28th a few brief rules and orders were adopted. On the next day, they commenced their great work.

On the same day, Edmund Randolph, of slaveholding Virginia, laid before the Convention a series of fifteen resolutions, containing his plan for the establishment of a New National Government. Here was no allusion to fugitives slaves.

Also, on the same day, Charles Pinckney, of slaveholding South Carolina, laid before the Convention what was called "A Draft of a Federal Government, to be agreed upon between the Free and Independent States of America," an elaborate paper, marked by considerable minuteness of detail. Here are provisions, borrowed from the Articles of Confederation, securing to the citizens of each State equal privileges, in the several States, giving faith to the public records of the States, and ordaining the surrender of fugitives from justice. But this draft, though from the flaming guardian of the slave interest, contained no allusion to fugitive slaves.

In the course of the Convention other plans were brought forward: on the 15th of June, a

series of eleven propositions by Mr. Paterson, of New Jersey, "so as to render the Federal Constitution adequate to the exigencies of Government and the preservation of the Union"; on the 18th June, eleven propositions by Mr. Hamilton, of New York, "containing his ideas of a suitable plan of Government for the United States" and on the 19th June, Mr. Randolph's resolutions, originally offered on the 29th May, "as altered, amended, and agreed to in Committee of the Whole House." On the 26th July, twenty-three resolutions, already adopted on different days in the Convention, were referred to a "Committee of Detail," for reduction to the form of a Constitution. On the 6th August this Committee reported the finished draft of a Constitution. And yet in all these resolutions, plans, and drafts, *seven* in number, proceeding from eminent members and from able committees, no allusion is made to fugitive slaves. For three months the Convention was in session, and not a word uttered on this subject.

At last, on the 28th August, as the Convention was drawing to a close, on the consideration of the article providing for the privileges of citizens in different States, we meet the first

reference to this matter, in words worthy of note. "General (Charles Cotesworth) Pinckney was not satisfied with it. He SEEMED *to wish some provision* should be included in favor of property in slaves." *But he made no proposition.* Unwilling to shock the Convention, and uncertain in his own mind, he only *seemed* to wish such a provision. In this vague expression of a vague desire this idea first appeared. In this modest, hesitating phrase is the germ of the audacious, unhesitating Slave Act. Here is the little vapor, which has since swollen, as in the Arabian tale, to the power and dimensions of a giant. The next article under discussion provided for the surrender of fugitives from justice. Mr. Butler and Mr. Charles Pinckney, both from South Carolina, now moved openly to require "fugitive slaves and servants to be delivered up like criminals." Here was no disguise. With Hamlet, it was now said in spirit,—

"Seems, Madam! Nay it is. I know not seems."

But the very boldness of the effort drew attention and opposition. Mr. Wilson, of Pennsylvania, the learned jurist and excellent man, at

once objected: "This would oblige the Executive of the State to do it at the public expense." Mr. Sherman, of Connecticut, "saw no more propriety in the public seizing and surrendering a slave or servant than a horse." Under the pressure of these objections, *the offensive proposition was withdrawn*,—never more to be renewed. The article for the surrender of criminals was then unanimously adopted. On the next day, 29th August, profiting by the suggestions already made, Mr. Butler moved a proposition,—substantially like that now found in the Constitution,—for the surrender, not of "fugitive slaves," as originally proposed, but simply of "persons bound to service or labor," which, without debate or opposition of any kind, was unanimously adopted.[7]

Here, palpably, was no labor of compromise, no adjustment of conflicting interest,—nor even any expression of solicitude. The clause finally adopted was vague and faint as the original suggestion. In its natural import it is not applicable to slaves. If supposed by some to be applicable, it is clear that it was supposed by others to be inapplicable. It is now insisted that the term "*persons bound to service*," or

"*held to service*," as expressed in the final revision, is the equivalent or synonym for "*slaves*." This interpretation is rebuked by an incident to which reference has been already made, but which will bear repetition. On the 13th September—a little more than a fortnight after the clause was adopted, and when, if deemed to be of any significance, it could not have been forgotten—the very word "service," came under debate, and received a fixed meaning. It was unanimously adopted as a substitute for "servitude" in another part of the Constitution, for the reason that it expressed "the *obligations of free persons*," while the other expressed "the condition of slaves." In the face of this authentic evidence, reported by Mr. Madison, it is difficult to see how the term "persons held to *service*" can be deemed to express anything beyond the obligations of *free persons*." Thus, in the light of calm inquiry, does this exaggerated clause lose its importance.

The provision, showing itself thus tardily, and so slightly regarded in the National Convention, was neglected in much of the contemporaneous discussion before the people. In the Conventions of South Carolina, North Carolina,

and Virginia, it was commended as securing important rights, though on this point there was difference of opinion. In the Virginia Convention, an eminent character, Mr. George Mason, with others, expressly declared that there was "no security of property coming within this section." In the other Conventions it was disregarded. Massachusetts, while exhibiting peculiar sensitiveness at any responsibility for slavery, seemed to view it with unconcern. One of her leading statesmen, General Heath, in the debates of the State Convention, strenuously asserted, that, in ratifying the Constitution, the people of Massachusetts "would do nothing to hold the blacks in slavery." "The Federalist," in its classification of the powers of Congress, describes and groups a large number as "those which provide for the harmony and proper intercourse among the States," and therein speaks of the power over public records, standing next in the Constitution to the provision concerning fugitives from service; but it fails to recognize the latter among the means of promoting "harmony and proper intercourse;" nor does its triumvirate of authors anywhere allude to the provision.

The indifference thus far attending this sub-

ect still continued. The earliest Act of Congress, passed in 1793, drew little attention. It was not suggested originally by any difficulty or anxiety touching fugitives from service, nor is there any contemporary record, in debate or otherwise, showing that any special importance was attached to its provisions in this regard. The attention of Congress was directed to fugitives from justice, and, with little deliberation, it undertook, in the same bill, to provide for both cases. In this accidental manner was legislation on this subject first attempted.[8]

There is no evidence that fugitives were often seized under this Act. From a competent inquirer we learn that twenty-six years elapsed before it was successfully enforced in any Free State. It is certain, that, in a case at Boston, towards the close of the last century, illustrated by Josiah Quincy as counsel, the crowd about the magistrate, at the examination, quietly and spontaneously opened a way for the fugitive, and thus the Act failed to be executed. It is also certain, that, in Vermont, at the beginning of the century, a Judge of the Supreme Court of the State, on application for the surrender of an alleged slave, accompanied by documentary evidence, gloriously

refused compliance, *unless the master could show a Bill of Sale from the Almighty.* Even these cases passed without public comment.

In 1801 the subject was introduced in the House of Representatives by an effort for another Act, which, on consideration, was rejected. At a later day, in 1817-18, though still disregarded by the country, it seemed to excite a short-lived interest in Congress. In the House of Representatives, on motion of Mr. Pindall, of Virginia, a committee was appointed to inquire into the expediency of "providing more effectually by law for reclaiming servants and slaves escaping from one State into another," and a bill reported by them to amend the Act of 1793, after consideration for several days in Committee of the Whole, was passed. In the Senate, after much attention and warm debate, it passed with amendments. But on return to the House for adoption of the amendments, it was dropped. This effort, which, in the discussions of this subject, has been thus far unnoticed, is chiefly remarkable as the earliest recorded evidence of the unwarrantable assertion, now so common, that this provision was originally of vital importance to the peace and harmony of the country.

At last, in 1850, we have another Act, passed by both Houses of Congress, and approved by the President, familiarly known as the Fugitive Slave Bill. As I read this statute, I am filled with painful emotions. The masterly subtlety with which it is drawn might challenge admiration, if exerted for a benevolent purpose; but in an age of sensibility and refinement, a machine of torture, however skilful and apt, cannot be regarded without horror. Sir, in the name of the Constitution, which it violates, of my country, which it dishonors, of Humanity, which it degrades, of Christianity, which it offends, I arraign this enactment, and now hold it up to the judgment of the Senate and the world. Again, I shrink from no responsibility. I may seem to stand alone; but all the patriots and martyrs of history, all the Fathers of the Republic, are with me. Sir, there is no attribute of God which does not take part against this Act.

But I am to regard it now chiefly as an infringement of the Constitution. Here its outrages, flagrant as manifold, assume the deepest dye and broadest character only when we consider that by its language it is not restricted to any special race or class, to the African or to

the person with African blood, but that any inhabitant of the United States, of whatever complexion or condition, may be its victim. Without discrimination of color even, and in violation of every presumption of freedom, the Act surrenders all who may be claimed as "owing service or labor" to the same tyrannical proceeding. If there be any whose sympathies are not moved for the slave, who do not cherish the rights of the humble African, struggling for divine Freedom, as warmly as the rights of the white man, let him consider well that the rights of all are equally assailed. "Nephew," said Algernon Sidney in prison, on the night before his execution, "I value not my own life a chip; but what concerns me is, that *the law* which takes away my life may hang every one of you, whenever it is thought convenient."

Whilst thus comprehensive in its provisions, and applicable to all, there is no safeguard of Human Freedom which the monster Act does not set at nought.

It commits this great question—than which none is more sacred in the law—not to a solemn trial, but to summary proceedings.

It commits this great question, not to one

of the high tribunals of the land, but to the unaided judgment of a single petty magistrate.

It commits this great question to a magistrate appointed, not by the President with the consent of the Senate, but by the Court,—holding office, not during good behavior, but merely during the will of the Court,—and receiving, not a regular salary, but fees according to each individual case.

It authorizes judgment on *ex parte* evidence, by affidavit, without the sanction of cross-examination.

It denies the writ of *Habeas Corpus*, ever known as the palladium of the citizen.

Contrary to the declared purposes of the framers of the Constitution, it sends the fugitive back "at the public expense."

Adding meanness to violation of the Constitution, it bribes the Commissioner by a double stipend to pronounce against Freedom. If he dooms a man to Slavery, the reward is ten dollars; but saving him to Freedom, his dole is five.

The Constitution expressly secures the "free exercise of religion"; but this Act visits with unrelenting penalties the faithful men and women who render to the fugitive that coun-

tenance, succor, and shelter which in their conscience "religion" requires; and thus is practical religion directly assailed. Plain commandments are broken; and are we not told that "Whosoever shall break one of these least commandments, and shall teach men so, he shall be called the least in the kingdom of Heaven"?

As it is for the public weal that there should be an end of suits, so by the consent of civilized nations these must be instituted within fixed limitations of time; but this Act, exalting Slavery above even this practical principle of universal justice, ordains proceedings against Freedom without any reference to the lapse of time.

Glancing only at these points, and not stopping for argument, vindication, or illustration, I come at once upon two chief radical objections to this Act, identical in principle with those triumphantly urged by our fathers against the British Stamp Act; *first*, that it is a usurpation by Congress of powers not granted by the Constitution, and an infraction of rights secured to the States; and, *secondly*, that it takes away Trial by Jury in a question of Personal Liberty and a suit at Common Law. Either of these objections, if sustained, strikes

at the very root of the Act. That it is obnoxious to both is beyond doubt.

Here, at this stage, I encounter the difficulty, that these objections are already foreclosed by legislation of Congress and decisions of the Supreme Court,—that as early as 1793 Congress assumed power over this subject by an Act which failed to secure Trial by Jury, and that the validity of this Act under the Constitution has been affirmed by the Supreme Court. On examination, this difficulty will disappear.

The Act of 1793 proceeded from a Congress that had already recognized the United States Bank, chartered by a previous Congress, which, though sanctioned by the Supreme Court, has been since in high quarters pronounced unconstitutional. If it erred as to the Bank, it may have erred also as to fugitives from service. But the Act itself contains a capital error on this very subject, so declared by the Supreme Court, in pretending to vest a portion of the judicial power of the Nation in State officers. This error takes from the Act all authority as an interpretation of the Constitution. I dismiss it.

The decisions of the Supreme Court are entitled to great consideration, and will not be

mentioned by me except with respect. Among the memories of my youth are happy days when I sat at the feet of this tribunal, while MARSHALL presided, with STORY by his side. The pressure now proceeds from the case of Prigg *v.* Pennsylvania (16 Peters, 539), where is asserted the power of Congress. Without going into minute criticism of this judgment, or considering the extent to which it is extra-judicial, and therefore of no binding force,—all which has been done at the bar in one State, and by an able court in another,—but conceding to it a certain degree of weight as a rule to the judiciary on this particular point, still it does not touch the grave question which springs from the denial of Trial by Jury. This judgment was pronounced by Mr. Justice Story. From the interesting biography of the great jurist, recently published by his son, we learn that the question of Trial by Jury was not considered as before the Court; so that, in the estimation of the learned judge himself, it was still an open question.[9]

* * * * * * *[10]

(1). *First of the power of Congress over this subject.*

The Constitution contains *powers* granted to

Congress, *compacts* between the States, and *prohibitions* addressed to the Nation and to the States. A compact or prohibition may be accompanied by a power,—but not necessarily, for it is essentially distinct in nature. And here the single question arises, Whether the Constitution, by grant, general or special, confers upon Congress any *power* to legislate on the subject of fugitives from service.

* * * * * * *"

The framers of the Constitution were wise and careful, having a reason for what they did, and understanding the language they employed. They did not, after discussion, incorporate into their work any superfluous provision ; nor did they without design adopt the peculiar arrangement in which it appears. Adding to the record compact an express grant of power, they testified not only their desire for such power in Congress, but their conviction that without such express grant it would not exist. But if express grant was necessary in this case, it was equally necessary in all the other cases. *Expressum facit cessare tacitum.* Especially, in view of its odious character, was it necessary in the case of fugitives from service. Abstaining from any such grant, and then grouping

the bare compact with other similar compacts, separate from every grant of power, they testified their purpose most significantly. Not only do they decline all addition to the compact of any such power, but, to render misapprehension impossible, to make assurance doubly sure, to exclude any contrary conclusion, they punctiliously arrange the clauses, on the principle of *noscitur a sociis*, so as to distinguish all the grants of power, but especially to make the new grant of power, in the case of public records, stand forth in the front by itself, severed from the naked compacts with which it was originally associated.

Thus the proceedings of the Convention show that the founders understood the necessity of *powers* in certain cases, and, on consideration, jealously granted them. A closing example will strengthen the argument. Congress is expressly empowered "*to establish an uniform rule of* naturalization, and *uniform laws* on the subject of bankruptcies, *throughout the United States.*" Without this provision these two subjects would have fallen within the control of the States, leaving the nation powerless *to establish a uniform rule* thereupon. Now, instead of the existing compact on fugitives from

service, it would have been easy, had any such desire prevailed, to add this case to the clause on naturalization and bankruptcies, and to empower Congress TO ESTABLISH A UNIFORM RULE FOR THE SURRENDER OF FUGITIVES FROM SERVICE THROUGHOUT THE UNITED STATES. Then, of course, whenever Congress undertook to exercise the power, all State control of the subject would be superseded. The National Government would have been constituted, like Nimrod, the mighty Hunter, with power to gather the huntsmen, to halloo the pack, and to direct the chase of men, ranging at will, without regard to boundaries or jurisdictions, throughout all the States. But no person in the Convention, not one of the reckless partisans of slavery, was so audacious as to make this proposition. Had it been distinctly made, it would have been as distinctly denied.

The fact that the provision on this subject was adopted *unanimously*, while showing the little importance attached to it *in the shape it finally assumed*, testifies also that it could not have been regarded *as a source of national power for Slavery*. It will be remembered that among the members of the Convention were Gouver-

neur Morris, who had said that he "NEVER would concur in upholding domestic Slavery," —Elbridge Gerry, who thought we "ought to be careful NOT *to give any sanction to it*,"— Roger Sherman, who "was OPPOSED to a tax on slaves imported, *because it implied they were property*,"—James Madison, who "thought it WRONG to admit in the Constitution the idea that there could be property in men,"—and Benjamin Franklin, who likened American slaveholders to Algerine corsairs. In the face of these unequivocal judgments, it is absurd to suppose that these eminent citizens consented *unanimously* to any provision by which the National Government, the creature of their hands, dedicated to freedom, could become the most offensive agent of Slavery.

Thus much for the evidence from the history of the Convention. But the *true principles of our political system* are in harmony with this conclusion of history; and here let me say a word of State rights.

It was the purpose of our fathers to create a National Government, and to endow it with adequate powers. They had known the perils of imbecility, discord, and confusion, protracted through the uncertain days of the Confedera-

tion, and they desired a government which should be a true bond of union and an efficient organ of national interests at home and abroad. But while fashioning this agency, they fully recognized the governments of the States. To the nation were delegated high powers, essential to the national interests, but specific in character and limited in number. To the States and to the people were reserved the powers, general in character and unlimited in number, not delegated to the nation or prohibited to the States.

The integrity of our political system depends upon harmony in the operations of the Nation and of the States. While the nation within its wide orbit is supreme, the States move with equal supremacy in their own. But, from the necessity of the case, the supremacy of each in its proper place excludes the other. The Nation cannot exercise rights reserved to the States, nor can the States interfere with the powers of the nation. Any such action on either side is a usurpation. These principles were distinctly declared by Mr. Jefferson in 1798, in words often adopted since, and which must find acceptance from all parties.

* * * * * * *[12]

I have already amply shown to-day that Slavery is in no respect national—that it is not within the sphere of national activity,—that it has no "positive" support in the Constitution,—and that any interpretation inconsistent with this principle would be abhorrent to the sentiments of its founders. Slavery is a local institution, peculiar to the States, and under the guardianship of State rights. It is impossible, without violence to the spirit and letter of the Constitution, to claim for Congress any power to legislate either for its abolition in the States or its support anywhere. *Non-Intervention* is the rule prescribed to the nation. Regarding the question in its more general aspects only, and putting aside, for the moment, the perfect evidence from the records of the convention, it is palpable that there is no *national fountain* out of which the existing Slave Act can possibly spring.

But this Act is not only an unwarrantable assumption of power by the nation, it is also an infraction of rights reserved to the States. Everywhere within their borders the States are peculiar guardians of *personal liberty*. By jury and *habeas corpus* to save the citizen harmless against all assault is among their duties and

rights. To his State the citizen, when oppressed, may appeal; nor should he find that appeal denied. But this Act despoils him of rights, and despoils his State of all power to protect him. It subjects him to the wretched chance of false oaths, forged papers, and facile commissioners, and takes from him every safeguard. Now, if the slaveholder has a right to be secure *at home* in the enjoyment of *Slavery*, so also has the freeman of the North—and every person there is presumed to be a free man—an equal right to be secure *at home* in the enjoyment of *freedom*. The same principle of State rights by which Slavery is protected in the slave States throws an impenetrable shield over Freedom in the free States. And here, let me say, is the only security for Slavery in the slave States, as for Freedom in the free States. In the present fatal overthrow of State rights you teach a lesson which may return to plague the teacher. Compelling the National Government to stretch its Briarean arms into the free States for the sake of Slavery, you show openly how it may stretch these same hundred giant arms into the slave States for the sake of Freedom. This lesson was not taught by our fathers.

Here I end this branch of the question. The true principles of our political system, the history of the National Convention, the natural interpretation of the Constitution, all teach that this Act is a usurpation by Congress of powers that do not belong to it, and an infraction of rights secured to the States. It is a sword, whose handle is at the National Capital, and whose point is everywhere in the States. A weapon so terrible to personal liberty the nation has no power to grasp.

(2). *And now of the denial of Trial by Jury.*

Admitting, for the moment, that Congress is intrusted with power over this subject, which truth disowns, still the Act is again radically unconstitutional from its denial of Trial by Jury in a question of personal liberty and a suit of common law. Since on the one side there is a claim of property, and on the other of liberty, both property and liberty are involved in the issue. To this claim on either side is attached Trial by Jury.

To me, Sir, regarding this matter in the light of the Common Law and in the blaze of free institutions, it has always seemed impossible to arrive at any other conclusion. If the language of the Constitution were open to doubt, which

it is not, still all the presumptions of law, all the leanings to Freedom, all the suggestions of justice, plead angel-tongued for this right. Nobody doubts that Congress, if it legislates on this matter, *may* allow a Trial by Jury. But if it *may*, so overwhelming is the claim of justice, it MUST. Beyond this, however, the question is determined by the precise letter of the Constitution.

Several expressions in the provision for the surrender of fugitives from service show the essential character of the proceedings. In the first place, the person must be, not merely *charged*, as in the case of fugitives from justice, but actually *held to service* in the State which he escaped. In the second place, he must "be delivered up on claim of the party to whom such service or labor may be *due*. These two facts—that he was *held* to service, and that his service was *due* to his claimant—are directly placed in issue, and must be proved. Two necessary incidents of the delivery may also be observed. First, it is made in the State where the fugitive is found; and, secondly, it restores to the claimant complete control over the person of the fugitive. From these circumstances it is evident that the proceedings cannot be re-

garded, in any just sense, as preliminary, or ancillary to some future formal trial, but as complete in themselves, final and conclusive.

These proceedings determine on the one side the question of property, and on the other the sacred question of personal liberty in its most transcendent form,—Liberty not merely for a day or a year, but for life, and the Liberty of generations that shall come after, so long as Slavery endures. To these questions the Constitution, by two specific provisions, attaches Trial by Jury. One is the familiar clause, already adduced: "No *person* shall be deprived of life, *liberty*, or property *without due process of law*,"—that is, without due proceeding at law, with Trial by Jury. Not stopping to dwell on this, I press at once to the other provision, which is still more express: "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of Trial by Jury shall be preserved." This clause, which does not appear in the Constitution as first adopted, was suggested by the very spirit of freedom. At the close of the National Convention, Elbridge Gerry refused to sign the Constitution because, among other things, it established "a tribunal *without juries*, a star chamber as to civil cases."

Many united in his opposition, and on the recommendation of the First Congress this additional safeguard was adopted as an amendment.

* * * * * * * [13]

Opposing this Act as doubly unconstitutional from the want of power in Congress and from the denial of trial by jury, I find myself again encouraged by the example of our Revolutionary Fathers, in a case which is a landmark of history. The parallel is important and complete. In 1765, the British Parliament, by a notorious statute, attempted to draw money from the colonies through a stamp tax, while the determination of certain questions of forfeiture under the statute was delegated, not to the Courts of Common Law, but to Courts of Admiralty without a jury. The Stamp Act, now execrated by all lovers of liberty, had this extent and no more. Its passage was the signal for a general flame of opposition and indignation throughout the colonies. It was denounced as contrary to the British Constitution, on two principal grounds—*first*, as a usurpation by Parliament of powers not belonging to it, and an infraction of rights secured to the colonies; and, *secondly*, as a denial of Trial by Jury in certain cases of property.

The public feeling was variously expressed. At Boston, on the day the act was to take effect, the shops were closed, the bells of the churches tolled, and the flags of the ships hung at half-mast. At Portsmouth, in New Hampshire, the bells were tolled, and the friends of liberty were summoned to hold themselves in readiness for her funeral. At New York, the obnoxious Act, headed "Folly of England and Ruin of America," was contemptuously hawked about the streets. Bodies of patriots were organized everywhere under the name of "Sons of Liberty." The merchants, inspired then by liberty, resolved to import no more goods from England until the repeal of the Act. The orators also spoke. James Otis with fiery tongue appealed to Magna Charta.

* * * * * * * [14]

Sir, regarding the Stamp Act candidly and cautiously, free from animosities of the time, it is impossible not to see that, though gravely unconstitutional, it was at most an infringement of *civil* liberty only, not of *personal* liberty. There was an unjust tax of a few pence, with the chance of amercement by a single judge without a jury; but by no provision of this act was the *personal* liberty of

any man assailed. No freeman could be seized under it as a slave. Such an act, though justly obnoxious to every lover of constitutional Liberty, cannot be viewed with the feelings of repugnance enkindled by a statute which assails the personal liberty of every man, and under which any freeman may be seized as a slave. Sir, in placing the Stamp Act by the side of the Slave Act, I do injustice to that emanation of British tyranny. Both infringe important rights: one, of property; the other, the vital right of all, which is to other rights as soul to body,—*the right of a man to himself.* Both are condemned; but their relative condemnation must be measured by their relative characters. As Freedom is more than property, as Man is above the dollar that he owns, as heaven, to which we all aspire, is higher than earth, where every accumulation of wealth must ever remain, so are the rights assailed by an American Congress higher than those once assailed by the British Parliament. And just in this degree must history condemn the Slave Act more than the Stamp Act.

Sir, I might here stop. It is enough, in this place, and on this occasion, to show the uncon-

stitutionality of this enactment. Your duty commences at once. All legislation hostile to the fundamental law of the land should be repealed without delay. But the argument is not yet exhausted. Even if this Act could claim any validity or apology under the Constitution, which it cannot, *it lacks that essential support in the Public Conscience of the States, where it is to be enforced, which is the life of all law, and without which any law must become a dead letter.*

* * * * * * *[15]

With every attempt to administer the Slave Act, it constantly becomes more revolting, particularly in its influence on the agents it enlists. Pitch cannot be touched without defilement, and all who lend themselves to this work seem at once and unconsciously to lose the better part of man. The spirit of the law passes into them, as the devils entered the swine. Upstart commissioners, mere mushrooms of courts, vie and revie with each other. Now by indecent speed, now by harshness of manner, now by denial of evidence, now by crippling the defense, and now by open, glaring wrong they make the odious Act yet more odious. Clemency, grace, and justice die in its presence. All this is observed by the world. Not a case

occurs which does not harrow the souls of good men, and bring tears of sympathy to the eyes, and those nobler tears which "patriots shed o'er dying laws."

Sir, I shall speak frankly. If there be an exception to this feeling, it will be found chiefly with a peculiar class. It is a sorry fact, that the "mercantile interest," in unpardonable selfishness, twice in English history, frowned upon endeavors to suppress the atrocity of Algerine Slavery, that it sought to baffle Wilberforce's great effort for the abolition of the African slave-trade, and that, by a sordid compromise, at the formation of our Constitution, it exempted the same detested, Heaven-defying traffic from American judgment. And now representatives of this "interest," forgetful that Commerce is born of Freedom, join in hunting the Slave. But the great heart of the people recoils from this enactment. It palpitates for the fugitive, and rejoices in his escape. Sir, I am telling you facts. The literature of the age is all on his side. Songs, more potent than laws, are for him. Poets, with voices of melody, sing for Freedom. Who could tune for Slavery? They who make the permanent opinion of the country, who mould our youth,

whose words, dropped into the soul, are the germs of character, supplicate for the Slave. And now, Sir, behold a new and heavenly ally. A woman, inspired by Christian genius, enters the lists, like another Joan of Arc, and with marvellous power sweeps the popular heart. Now melting to tears, and now inspiring to rage, her work everywhere touches the conscience, and makes the Slave-Hunter more hateful. In a brief period, nearly one hundred thousand copies of *Uncle Tom's Cabin* have been already circulated. But this extraordinary and sudden success, surpassing all other instances in the records of literature, cannot be regarded as but the triumph of genius. Better far, it is the testimony of the people, by an unprecedented act, against the Fugitive Slave Bill.

These things I dwell upon as incentives and tokens of an existing public sentiment, rendering this Act practically inoperative, except as a tremendous engine of horror. Sir, the sentiment is just. Even in the lands of Slavery, the slave-trader is loathed as an ignoble character, from whom the countenance is turned away; and can the Slave-Hunter be more regarded, while pursuing his prey in a land of Freedom? In early Europe, in barbarous days, while Sla-

very prevailed, a Hunting Master was held in aversion. Nor was this all. The fugitive was welcomed in the cities, and protected against pursuit. Sometimes vengeance awaited the Hunter. Down to this day, at Revel, now a Russian city, a sword is proudly preserved with which a hunting Baron was beheaded, who, in violation of the municipal rights of the place, seized a fugitive slave. Hostile to this Act as our public sentiment may be, it exhibits no similar trophy. The State laws of Massachusetts have been violated in the seizure of a fugitive slave; but no sword, like that of Revel, now hangs at Boston.

* * * * * * * [16]

And now, Sir, let us review the field over which we have passed. We have seen that any compromise, finally closing the discussion of Slavery under the Constitution, is tyrannical, absurd, and impotent; that, as Slavery can exist only by virtue of positive law, and as it has no such positive support in the Constitution, it cannot exist within the national jurisdiction; that the Constitution nowhere recognizes property in man, and that, according to its true interpretation, Freedom and not Slavery is national, while Slavery and not Freedom is sectional;

that in this spirit the National Government was first organized under Washington, himself an Abolitionist, surrounded by Abolitionists, while the whole country, by its Church, its Colleges, its Literature, and all its best voices, was united against Slavery, and the national flag at that time nowhere within the National Territory covered a single slave; still further, that the National Government is a government of delegated powers, and, as among these there is no power to support Slavery, this institution cannot be national, nor can Congress in any way legislate in its behalf; and, finally, that the establishment of this principle is the true way of peace and safety for the Republic. Considering next the provision for the surrender of fugitives from service, we have seen that it was not one of the original compromises of the Constitution; that it was introduced tardily and with hesitation, and adopted with little discussion, while then and for a long period thereafter it was regarded with comparative indifference; that the recent Slave Act, though many times unconstitutional, is especially so on two grounds, —*first*, as a usurpation by Congress of powers not granted by the Constitution, and an infraction of rights secured to the States, and, *sec-*

ondly, as the denial of Trial by Jury, in a question of personal liberty and a suit at Common Law; that its glaring unconstitutionality finds a prototype in the British Stamp Act, which our fathers refused to obey as unconstitutional on two parallel grounds,—*first*, because it was a usurpation by Parliament of powers not belonging to it under the British Constitution, and an infraction of rights belonging to the Colonies, and, *secondly*, because it was the denial of Trial by Jury in certain cases of property; that, as Liberty is far above property, so is the outrage perpetrated by the American Congress far above that perpetrated by the British Parliament; and, finally, that the Slave Act has not that support, in the public sentiment of the States where it is to be executed, which is the life of all law, and which prudence and the precept of Washington require.

* * * * * * *[17]

Mr. President, I have occupied much time; but the great subject still stretches before us. One other point yet remains, which I must not leave untouched, and which justly belongs to the close. The Slave Act violates the Constitution, and shocks the Public Conscience. With modesty, and yet with firmness, let me add, Sir,

it offends against the Divine Law. No such enactment is entitled to support. As the throne of God is above every earthly throne, so are his laws and statutes above all the laws and statutes of man.[18] To question these is to question God himself. But to assume that human laws are beyond question is to claim for their fallible authors infallibility. To assume that they are always in conformity with the laws of God is presumptuously and impiously to exalt man even to equality with God. Clearly, human laws are not always in such conformity; nor can they ever be beyond question from each individual. Where the conflict is open, as if Congress should command the perpetration of murder, the office of conscience as final arbiter is undisputed. But in every conflict the same queenly office is hers. By no earthly power can she be dethroned. Each person, after anxious examination, without haste, without passion, solemnly for himself must decide this great controversy. Any other rule attributes infallibility to human laws, places them beyond question, and degrades all men to an unthinking, passive obedience.

* * * * * * * [19]

The mandates of an earthly power are to

be discussed; those of Heaven must at once be performed; nor should we suffer ourselves to be drawn by any compact into opposition to God. Such is the rule of morals. Such, also, by the lips of judges and sages, is the proud declaration of English law, whence our own is derived. In this conviction, patriots have braved unjust commands, and martyrs have died.

And now, sir, the rule is commended to us. The good citizen, who sees before him the shivering fugitive, guilty of no crime, pursued, hunted down like a beast, while praying for Christian help and deliverance, and then reads the requirements of this Act, is filled with horror. Here is a despotic mandate "to aid and assist in the prompt and efficient execution of this law." Again let me speak frankly. Not rashly would I set myself against any requirement of law. This grave responsibility I would not lightly assume. But here the path of duty is clear. By the Supreme Law, which commands me to do no injustice, by the comprehensive Christian Law of Brotherhood, *by the Constitution, which I have sworn to support*, I AM BOUND TO DISOBEY THIS ACT. Never, in any capacity, can I render voluntary aid in its execution. Pains and penalties I will en-

dure, but this great wrong, I will not do. "Where I cannot obey actively, there I am willing to lie down and to suffer what they shall do unto me"; such was the exclamation of him to whom we are indebted for the *Pilgrim's Progress* while in prison for disobedience to an earthly statute. Better suffer injustice than do it. Better victim than instrument of wrong. Better even the poor slave returned to bondage than the wretched Commissioner.

There is, sir, an incident of history which suggests a parallel, and affords a lesson of fidelity. Under the triumphant exertions of that Apostolic Jesuit, St. Francis Xavier, large numbers of Japanese, amounting to as many as two hundred thousand,—among them princes, generals, and the flower of the nobility,—were converted to Christianity. Afterwards, amidst the frenzy of civil war, religious persecution arose, and the penalty of death was denounced against all who refused to trample upon the effigy of the Redeemer. This was the Pagan law of a Pagan land. But the delighted historian records, that from the multitude of converts scarcely one was guilty of this apostasy. The law of man was set at naught. Imprisonment, torture, death, were preferred. Thus

did this people refuse to trample on the painted image. Sir, multitudes among us will not be less steadfast in refusing to trample on the living image of their Redeemer.

Finally, Sir, for the sake of peace and tranquility, cease to shock the Public Conscience; for the sake of the Constitution, cease to exercise a power nowhere granted, and which violates inviolable rights expressly secured. Leave this question where it was left by our fathers, at the formation of our National Government,— in the absolute control of the States, the appointed guardians of Personal Liberty. Repeal this enactment. Let its terrors no longer rage through the land. Mindful of the lowly whom it pursues, mindful of the good men perplexed by its requirements, in the name of Charity, in the name of the Constitution, repeal this enactment, totally and without delay. There is the example of Washington, follow it. There also are words of Oriental piety, most touching and full of warning, which speak to all mankind, and now especially to us: "Beware of the groans of wounded souls, since the inward sore will at length break out. Oppress not to the utmost a single heart; for a solitary sigh has power to overturn a whole world."[50]

APPENDIX.

NOTES.

RUFUS KING.

1. Rufus King was born in Scarborough, Maine, then a part of Massachusetts, on March 24, 1755. He graduated from Harvard College in 1777. While at college he earned a reputation by his proficiency in the classics and by unusual powers in oratory, to which he gave special attention. During a portion of the Revolutionary War he served as an aide-de-camp to General Sullivan in the expedition against the British in Rhode Island. He was admitted to the bar in Newburyport, Massachusetts, in 1780. He won early and notable success in the law, and in 1783 he was elected to the Massachusetts Legislature. In this Legislature Mr King showed the national bent of his mind by urging that full authority be granted to the general government to regulate the commerce of the States and that the five-per-cent. impost be granted to Congress. In 1784 he was elected by the Legislature of Massachusetts to the Congress of the Confederation. In this Congress he was an earnest advocate of the prohibition of slavery in the territory and prospective States of the Northwest. Mr. King was a member of the Constitutional Convention of 1787, and in the discussions of that Convention he bore an able and prominent part. Few men contributed more than he to the making of the Constitution. He was on the committee to which was assigned the duty of making the final draft of the Constitution. King was also in the Massachusetts

Convention for the ratification of the Constitution, and it is largely owing to his efforts there that Massachusetts was persuaded to ratify. He and Fisher Ames were to the Massachusetts Convention what Hamilton was to that in New York and Madison and Marshall to that in Virginia.

In 1788 Mr. King moved to the city of New York. The same year in which he came to New York he was elected to the State Legislature, and in 1789 he "received the unexampled welcome" of an election as one of New York's first Senators in the United States Congress. King was a pronounced Federalist in politics. Albert Gallatin having been elected a Senator from Pennsylvania, and the question of his eligibility having been raised, King made a notable speech in answer to Burr in opposition to Gallatin's right to the seat. He was a pronounced advocate of Jay's Treaty, and in 1794 he was hissed and prevented from speaking while attempting, in company with Hamilton, to address the public in defence of the treaty. He and Hamilton then united in a series of papers over the title of *Camillus*, to explain and defend the treaty before the public. Of these papers, the ones relating to commercial affairs and maritime law were written by Mr. King. In 1796 he was sent by Washington as our envoy to England, where he remained for seven years, until 1803. From 1803 to 1813 he was in private life, but in the latter year he was again elected as United States Senator from New York. He was nominated for Governor by the New York Federalists in 1816, and was voted for by his party electors for President against Monroe the same year. He had also been the candidate of the Federal party for Vice-President in 1804 and 1808. In the Senate in 1818 he contributed materially to bring about the passage of the Navigation Act of that year, and his speech on that subject is a notable one. He was re-elected to the Senate in 1819, closing his Senatorial course in 1825. He then expected to retire from public life, but was persuaded by Presi-

dent J. Q. Adams to undertake the mission to Great Britain. He returned home in 1826 on account of ill health, and died at Jamaica, L. I., April 29, 1827.

King's most notable public service in his late years was in his opposition to the admission of Missouri as a slave State. He was the recognized leader of the anti-slavery forces in this struggle. His speeches were but meagrely reported in the *Annals of Congress*, but the substance of the two which he made in the Senate, as he afterwards gave them to the press, contain the main arguments for his side of the controversy. No one, in that day, could speak with greater authority and more weight than he upon the Constitutional phases of the question, and his speeches formed the basis for many of the subsequent Congressional debates on slavery.

References:

Lalor's, Johnson's, and Appleton's *Cyclopædias.*
Moore's *American Eloquence*, vol. ii.
MacMaster's and Schouler's *History of the United States.*
Life and Correspondence of Rufus King.
The Annals of Congress.
Benton's *Abridgment of Debates.*

2. Historical Note on the Missouri Question.

The struggle over the admission of Missouri into the Union was one of the most important in the long slavery controversy. The Missouri struggle lasted for three years, from March, 1818, to March, 1821. The immediate result of that struggle was the admission of Missouri without restriction as to slavery, accompanied with the provision that slavery should be forever excluded from all the Louisiana purchase north of 36° 30′; the line which formed the southern boundary of Missouri. In these few words is stated the substance of the Missouri Compromise,—the basis of adjustment of one of the most violent political struggles, the outcome of one of the ablest, most

prolonged, and startling debates in the annals of the American Congress.

In 1789 there were seven free States—or States soon sure to be free—and six slave States. From 1789 to 1820 States were admitted as follows: Vermont, 1791; Kentucky, 1792; Tennessee, 1796; Ohio, 1803; Louisiana, 1812; Indiana, 1816; Mississippi, 1817; Illinois, 1818; Alabama, 1819. Approximately, they had come in in pairs, slave States and free. The slave States had gained one from the start, and with the admission of Alabama the balance was struck, in numbers 11 to 11. It was in this equilibrium of political power between the sections as represented in the United States Senate that the struggle over Missouri arose.

The Missouri struggle consisted really of three struggles. The first began in the 15th Congress, March, 1818, when Missouri, through Mr. Scott, her territorial delegate in Congress, presented a petition for statehood. Nothing was done with the enabling act for Missouri during that session. At the next session, November 18, 1818, a memorial was again presented from Missouri praying for admission. The memorial was referred to the proper committee, and an enabling act authorizing Missouri to form a State Constitution preparatory to admission was reported to the Committee of the whole House on February 13, 1819. On that day, Mr. James Tallmadge, Jr., a representative from New York, offered an amendment to the bill providing

1. Against the further introduction of slaves.
2. For gradual emancipation of the slaves already there.

"The motion of Tallmadge," says the *Annals*, "gave rise to an interesting and pretty wide debate." After four days of discussion the bill was passed with the Tallmadge amendment by a sectional vote, 87 to 76. In the Senate the Tallmadge amendment was stricken out and the bill returned to the House. The House refused to concur in the Senate's action

and the bill was again sent to the Senate with a message of non-concurrence. A message immediately came back from the Senate that that body still adhered to its exclusion of the Tallmadge amendment, and the House, on motion of Mr. Taylor, of New York, again voted to adhere to its action, and the Missouri bill was lost with the Fifteenth Congress, in its closing hours in deadlock. Thus ended the first struggle.

The second struggle began at the assembling of the next Congress, December 6, 1819. During the summer and fall the Missouri question was widely discussed throughout the country by platform and press. State Legislatures passed resolutions for and against the admission of Missouri. Mr. Clay was the Speaker of the new Congress, as he had been of the previous one. A new Missouri bill was presented the first week of the session. It did not come up in the House for discussion until January 24, 1820. On the 26th of January, Mr. Taylor, of New York, offered an amendment to the bill prohibiting slavery in the new State. The bill with this restrictive amendment was debated almost daily for nearly a month, until February 19th, when a bill came down from the Senate to admit the State of Maine into the Union carrying the whole Missouri bill, without restriction as to slavery, as a "rider."

A word as to Maine. By an act of the State of Massachusetts the people of that part of Massachusetts known as Maine were permitted to form themselves into an independent State. Massachusetts thus freely consented to her own division, but these proceedings were to be void unless Maine were admitted to the Union by March 4, 1820. Accordingly, the people of Maine formed a Constitution, organized a State government, and petitioned Congress for admission to the Union. No enabling act was required for Maine, as her territory did not belong to the United States. Her case was exactly parallel

with that of Kentucky. All that was necessary was a simple resolution "that from and after March 3, 1820, the State of Maine is hereby declared to be one of the United States of America," and to extend the United States jurisdiction over her territory, and to assign her a fair proportion of representatives. This would have been an easy matter but for the issue over Missouri. The House had passed an ordinary Maine bill January 3, 1820, without discussion. The Senate had passed a similar bill to a second reading as early as December 22, 1819. When the House bill for Maine came to the Senate the party stroke was conceived of combining the two bills, for Maine and Missouri, into one, thus making the admission of Maine dependent upon the unconditional admission of Missouri. Henry Clay gave public approval to this scheme during the discussion. The Maine bill with the Missouri rider was discussed in the Senate from January 13 to February 16, 1820. It was during this period of the struggle that the speeches of King and Pinkney were made. Amid the highest excitement of the debate, Mr. Thomas, Senator from Illinois, offered an amendment to the Missouri section of the bill involving the terms of the final compromise,—that Missouri should be admitted as a slave State, but that slavery should be prohibited in the rest of the Louisiana purchase north of 36° 30'. When the House received from the Senate the combination bill, with the Thomas provision, it refused to agree to the log rolling of Maine and Missouri into one bill. This was on February 23d. A week later the Senate again sent a message to the House insisting upon the combination. The House again refused, and then Mr. Thomas, of Illinois, moved in the Senate for a Committee of Conference. The House agreed to the conference. The conferrees appointed were, Senators Thomas, of Illinois, Pinkney, of Maryland, Barbour, of Virginia, and Representatives Holmes, of Massachusetts, Taylor, of New York, Lowndes, of South Carolina, Parker, of Massa-

chusetts, and Kinsey, of New Jersey. The Conference Committee reported three distinct recommendations:

1. The Senate should give up a combination of Missouri in the same bill with Maine, and Maine should be admitted.

2. The House should abandon the attempt to restrict slavery in Missouri.

3. Both Houses should agree to pass the Senate's Missouri bill with the Thomas restriction excluding slavery north and west of that State.

The House agreed to this arrangement only by a close vote, 90 to 87. The Missouri bill, enabling Missouri to form her State Constitution without restriction as to slavery, passed both Houses on March 2, 1820. The next day the Maine bill passed the Senate. Thus Maine was admitted in time to preserve her separate organization, and the people of Missouri were authorized to form a State government and Constitution. Thus ended the second struggle.

In reviewing the struggle in his mind the careful student will distinguish here between the two totally distinct propositions in reference to restriction: (1) The original restriction of Tallmadge, which Clay vehemently opposed, proposed the exclusion of slavery from Missouri. This was restriction on a *State*, and was opposed on that ground. (2) The final restriction of Thomas proposed the exclusion of slavery from the Territories of the United States north and west of Missouri. This proposition was adopted; but it did not emanate from the original Missouri restrictionists, nor did it by any means satisfy them. The final compromise measure was proposed by a steadfast opponent of the original Tallmadge amendment. "The current assumption," says Greeley, "that this restriction was proposed by Rufus King, of New York, and mainly sustained by the antagonists of slavery, is wholly mistaken. The truth, doubtless, is that it was suggested by the more moderate opponents of restriction on Missouri as a means of overcoming

the resistance of the House to slavery in Missouri. It was, in effect, an offer from the milder opponents of slavery restriction to the more moderate and flexible advocates of that restriction. 'Let us have slavery in Missouri and we will unite with you in excluding it from all the uninhabited territories north and west of that State.' It was in substance an agreement between the North and the South to that effect, though the more determined champions, whether of slavery extension or slavery restriction, did not unite in it."* This statement of Greeley is borne out by the record and the final vote. After the prolonged and bitter contest; after a debate, then without a parallel in the history of Congress, a debate equalled only in the Constitutional Convention of 1787, which itself had settled the slavery question by compromises; facing bitter prophecies of disunion as an alternative; with earnest and impassioned appeals for peace and compromise still resounding in their ears, eighty-seven original restrictions still held out for restriction on Missouri. They would not consent to a single other slave State in the American Union, and restriction was finally abandoned only by a majority of three votes. Slavery was allowed in Missouri, and restriction was beaten only by the plan of proffering instead an exclusion of slavery from all the then Federal territory west and north of that State. Without this compromise, or its equivalent, the Northern votes needed to pass the bill could not have been obtained.†

The third struggle over Missouri, though the most animated and bitter of all, arose over what is, historically, a minor matter. A Missouri Convention adopted a Constitution for the new State July 19, 1820. In their displeasure at the delay imposed upom them, and with a feeling that they should be allowed to settle the slavery question for themselves, the people

* *Political Text Book*, 1860, p. 63.

† Greeley, *Political Text Book*, 1860.

of Missouri inserted a clause in their Constitution requiring the State Legislature to prevent free negroes and mulattoes from coming into that State. When this Constitution was submitted to Congress November 20, 1820, the anti-slavery men refused to vote for Missouri's admission under it, on the ground that the objectionable clause was in violation of the United States Constitution, which declares that "the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States."

In speaking of the objectionable clause in Missouri's Constitution, Benton says : "This clause was laid hold of in Congress to resist the admission of the State ; but the real point of objection was the slavery clause and the existence of slavery in the State." * Whether or not this was used as a mere pretext by the anti-slavery men to keep Missouri out while she tolerated slavery, it is certain that the refusal to admit her under the Constitution which she had prepared led to a more heated and acrimonious debate than any that had preceded. The struggle lasted through the winter of 1820–21. The South charged bad faith upon the North. Maine had been admitted and restriction had been applied to all the Louisiana territory outside of Missouri. Missouri's admission on her own terms was the price agreed to for this exclusion of slavery and the admission of Maine. The price should now be paid. If not, the compromise and settlement of the previous spring would have to be undone, as far as possible. The admission of Maine could not be undone. But if the Northern representatives now refused to admit Missouri they would be as the receivers of stolen goods. But the Northern members persistently refused to vote for Missouri's admission until it was agreed "that the objectionable clause of her Constitution should never be construed to authorize the passage of any

* *Thirty Years' View*, vol. i., pp. 8 and 9.

laws, and that no laws should ever be passed, by which any citizen of either of the States of the Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States ; that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition." Upon the transmission of this act to the chief executive, the President was to proclaim the admission of Missouri.

With this the struggle ended and the long controversy over Missouri passed into history.

Taken in connection with its subsequent repeal in 1854, the struggle has a particularly significant feature. It was not a contest over the power of Congress to prohibit slavery in the Territories. The Southern contention was, chiefly, that Congress had no power nor right to impose conditions upon an incoming State. Though the struggle lasted more than three years, the final proposition closing the controversy, which prohibited slavery in almost all the then Federal territory, was debated but a few hours. Very few slavery extensionists questioned the power of Congress to prevent the spread of slavery into the Territories. Wirt, Crawford, and Calhoun, Southern members of Monroe's Cabinet, all agreed that Congress possessed such power. But John Quincy Adams, a Northern, anti-slavery man, who was also a member of Monroe's Cabinet, while holding the same position on the territorial question, believed that it was unconstitutional to impose conditions upon a State. In 1854, when it was proposed, by the Kansas-Nebraska bill, to repeal the Missouri Compromise, the question of the prohibition of slavery in the territories was primary and dominant, but in 1820, when the territorial restriction was imposed, that question was secondary and incidental.

See *Annals of Congress.*

Von Holst's *United States Const. History.*

Schouler's *United States History.*
MacMaster's *United States History.*
Woodburn's *Historical Significance of the Missouri Compromise*, in the Papers of the American Historical Association, 1893.

3. Maryland and New Jersey made special objections to the ratification of the Articles of Confederation on account of the Western lands, Maryland persistently refusing to ratify until the cession of those lands to the general government was guaranteed by the claimant States. Maryland feared that Virginia, by the sale of her Western lands, would be able to lower her taxes and thus offer special attractions to new settlers and citizens; or that a tributary State subject to the influence and control of Virginia might be erected in the Northwest Territory. In her paper of May 21, 1779, setting forth her objections to the Articles of Confederation and her refusal to ratify until cessions were made of the Western lands, Maryland said: "We are convinced that policy and justice require that a country unsettled at the commencement of this war, claimed by the British Crown and ceded to it by the Treaty of Paris, 1763, if wrested from the common enemy by the blood and treasure of the thirteen States, should be considered as a common property, subject to be parcelled out by Congress into free, convenient, and independent governments in such manner and at such time as the wisdom of that assembly shall hereafter direct."

In 1780, in order to induce the claimant States to make the cession of their lands, Congress passed the following resolution, which has ever since been the basis of our national policy in the erection of new States:

Resolved, That the unappropriated lands that may be ceded or relinquished to the United States by any particular State, pursuant to the recommendation of Congress of the 6th day of

September last, shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican States, which shall become members of the federal union, and have the same rights of sovereignty and freedom and independence as the other States.

See Elliot's *Debates*, vol. i.

H. B. Adams' *Maryland's Service in the Land Cessions*, Johns Hopkins University Studies.

Schouler's *United States History*, vol. i.

4. It was in 1819, during the discussions on the Missouri bill that the bill organizing Arkansas as a separate Territory was passed. An attempt was made—led by Taylor of New York—to attach to the bill a clause prohibiting slavery in the Arkansas Territory. "This motion, says the *Annals*, "gave rise to a wide and long continued debate, covering part of the ground previously occupied on this subject, but differing in part, as the proposition for Arkansas was to impose a condition on a Territorial government instead of, as in the former case, to enjoin the adoption of the prohibitive principle in the Constitution of a State."

This distinction is important in view of the fact that the chief argument against restriction on Missouri was based on the sovereignty and equality of the States. (See Pinkney's argument.) The case of Arkansas presented the plain, unincumbered question of the right of Congress to prohibit slavery in the Territories. Very few persons in 1820 denied the power of Congress to do this. Slavery restriction on Arkansas failed chiefly because of complication with the Missouri question.

See *Historical Significance of the Missouri Compromise*, American Historical Association Papers for 1893.

5. The omission contains but a brief remark to the effect that it was the situation and the habits of the people in New Orleans which prevented the imposition of still another con-

dition upon Louisiana. The conditions which were imposed indicated the power of Congress to exclude slavery from the new State in 1812. The omission of the condition was within the discretion of Congress.

6. This language is from the Treaty by which we secured Louisiana in 1803.

7. King here calls attention to the fact that the last part of the clause quoted from the Louisiana Treaty is but the usual formula in the transference of territory. He proceeds to give a special examination to the word "property" to show that a guaranty to slave ownership was not stipulated.

8. In this omission Mr. King refers to the precedent which influenced the Constitutional Convention of 1787 to fix upon the three-fifths rule of representation. By the Articles of Confederation the States were to pay into the common treasury in proportion to the value of their lands, houses, and improvements. This was not satisfactory, and in 1783, in the 5 per cent. impost act of that year, it was agreed by Congress that taxes should be apportioned among the States in proportion to the population, counting three fifths of the slaves. All the States did not consent to this, and the project fell through. But when the Convention came to the question of representation in 1787, since it had been a principle of the Revolution that representation and taxation should go together, this act of Congress of 1783 was looked to as a pertinent and weighty precedent. King refers to it to show its influence in settling the question of representation in 1787. The question was then unavoidably complicated with other matters; but in 1820, in the case of Missouri, the question of slave representation assumes the phase of an original question.

9. King here discusses the evils of slavery, its restraints upon the strength, industry, and the tax-paying capacity of a

State; and he urged that whether slavery was to extend to the prospective States in the South and West depended on whether it was permitted in Missouri. Security both against domestic violence and an exposed frontier depended on the extension of free States in the West.

10. This argument was made prominent by those who advocated the admission of Missouri as a slave State. The evils of slavery were to be "diluted." With the slaves thus dispersed, their condition would be bettered; their numbers would be the same, and their health and comfort would be increased. Jefferson and Clay both made this plea. King effectually refutes it.

See Jefferson's *Works*, vol. vii., p. 194.

11. On the other hand King shows that the increase of free States makes for the amelioration of the slaves and promotes the spirit of emancipation. He refers, also, to the growing desire to benefit the free colored people by colonizing them. In this connection it is interesting to notice a proposition of King's made in the Senate subsequent to the time of this speech, that after the public debts were paid the proceeds from the sale of public lands should be converted into a fund to provide for the colonization and emancipation of the blacks.

12. This speech of King's is not reported in the *Annals*. The author furnished it from notes and memory to Niles' *Register* "substantially as he made it." See Niles, vol. xvii., p. 215 (1819).

King did not favor the Missouri Compromise as finally agreed upon. He was not one of the moderate opponents of slavery extension, and was therefore not willing to consent to Missouri's coming in as a slave State even for the consideration offered. He was, however, not an abolitionist, as this term came to be understood in connection with Garrison and

Phillips. He was not an agitator, seeking to abolish slavery within the States, or to disturb the relations of the States to one another. In a letter which forms the preface to these speeches as published in 1819 he says:

"I am particularly anxious not to be misunderstood on this subject, never having thought myself at liberty to encourage, or to assent to, any measure that would affect the security of property in slaves, or tend to disturb the political adjustment which the Constitution has established respecting them; I desire to be considered as still adhering to this reserve; and that the observations should be construed to refer, and to be confined, to the prohibition of slavery in the new States, to be formed beyond the original limits of the United States, a prohibition which, in my judgment, Congress have the power to establish, and the omission of which may, as I fear, be productive of most serious consequences."

King may fairly be said to be the anti-slavery statesman of the Missouri conflict. His attitude toward slavery in 1820 may be compared to that of Seward in 1850–60. Neither statesman disregarded the moral and social evils of slavery, but that which they particularly emphasized was the disproportion in political power which the slave system gave to the Slave States of the Union, new and old, and the consequent control which this gave over our National policy. It was, after all, resistance to this complete control which became the basis for the formation of the Republican party in 1854–6.

WILLIAM PINKNEY.

1. William Pinkney was born at Annapolis, Md., March 17, 1764. The South Carolina Pinckneys, though they spell their name differently, are a branch of the same family. William Pinkney's father was an American Tory during the Revolu-

tion, and was dispossessed of his property by confiscation; and this caused young Pinkney to relinquish his studies at an early age. He himself was a patriotic advocate of the American cause. He studied law, and was admitted to the bar in 1786. He had at first pursued the study of medicine, but soon abandoned it as unsuited to his taste. He was a member, in 1788, of the Maryland Convention for the ratification of the Constitution. From 1788 to 1792 he was a member of the Maryland House of Delegates. In 1796 he became one of the representatives of the United States on the Commissions provided by Jay's Treaty for the adjustment of claims growing out of English spoliations on our commerce. In 1805, upon his return to this country, he became Attorney General of Maryland. In 1806 he was associated with Mr. Monroe on a Mission to England, in our attempt to secure a settlement of commercial differences. The Treaty agreed to by Monroe and Pinkney left unsettled the question of impressment and search, and it was not submitted to the Senate by Jefferson. Monroe soon retired from London, and Pinkney was our sole representative there until 1811. During the War of 1812 Mr. Pinkney warmly supported the policy of the administration. He became the commander of a volunteer corps, and was severely wounded at Bladensburg. He was for a while, in 1811, a member of the State Senate of Maryland, and, from 1812–14, was Attorney General of the United States by appointment of President Madison. He resigned this office when Congress required, by law, that the Cabinet officers should reside at the seat of government. Pinkney's private practice was too lucrative to sacrifice. In 1815 Pinkney was elected to Congress, and in the following year he was sent abroad on a double mission, as Minister to Russia and as special envoy to Naples. The latter mission was for the purpose of recovering indemnification for seizures and confiscations of the Neapolitan government in 1809, during the reign

of Murat. Naples seems not to have recognized the justice of these claims. Pinkney remained in Russia until 1818. He took his seat in the United States Senate in 1820. The speech on the Missouri bill was his most notable effort during his senatorial career. He died after a service of two years, on February 25, 1822.

Another of Pinkney's most celebrated speeches was his argument before the Supreme Court in the case of the *Nereide*, in 1815.

References:

Moore's *American Eloquence*, vol. ii.
Wheaton's *Life of Pinkney.*
Perry's *Sketches of American Statesmen.*
Appleton's *Cyclopædia of American Biography.*
Life of Pinkney, by Rev. William Pinkney.
The standard *Cyclopædias.*

2. See Note 2 on King's Speech, pp. 345–352.

3. He continues in general introductory remarks.

4. He indulges in a eulogy on the Union and expresses his belief in its perpetuity.

5. The Vice-President, Mr. Daniel D. Tompkins.

6. "Whose it is to give, it is his to deny."

7. In this highly rhetorical language Pinkney indicates one of the significant issues at stake in the controversy: "Has Congress the right to impose conditions upon a State?" No one now questions this right, and the extent to which it is exercised now is very much greater than it was thought of in the early days of the Republic. The early admission of States was without an enabling act; in the case of Vermont and Kentucky, a resolution merely consented to the admission

of the new State. Now we usually have an elaborate law undertaking to limit the power of the people over their State Constitution, and, as in the case of Utah, the conditions have extended so far as to deny the franchise to all persons of a certain religious faith and practice. And a recent writer has gone so far, in discussing the inequality of representation in the United States Senate, as to propose that new States should hereafter be required to submit to the condition of being satisfied with one Senator in the upper house of Congress until its population should reach 500,000. See the *Political Science Quarterly*, June, 1895. There is quite a difference of opinion as to whether the conditions imposed by the enabling act are binding after the admission of the State. See King's Speech, p. 33, and *The Historical Significance of the Missouri Compromise*, Papers of the American Historical Association, 1893, p. 295.

8. The orator here indulges in a brief strain of moralizing and generalization,—that encroachments are always apt to come in the garb of humanity and piety.

9. "*Medicine* to it," a use of the word which is rare if not obsolete now.

10. He speaks to the plea that this discretion will not be abused. Unlimited, irresponsible power is always perilous. No one can foretell what changes and abuses may arise if once it is conceded that such power may be exercised.

11. This argument is based on the well-known "compact" view as to the nature of the Union. It agrees with the view expressed by Josiah Quincy in his speech on the admission of Louisiana. See vol. i., of this series. The same argument on "the Missouri questions" appears to have been made by Charles Pinckney of South Carolina. See the extract from Von Holst, Note 20.

12. The omitted passage considers whether, conceding that Congress may admit or reject at discretion, it may impose conditions,—whether Congress could impose a condition which would change the character of the Federal compact.

13. In this omission Pinkney urges the argument that the conditions would not bind the State after its admission. "No Territory, in order to become a State, can alienate or surrender any portion of its sovereignty."

14. He speaks of the ancient origins of slavery and answers King's appeal to Greek and Roman law and to Magna Charta and English precedents; he finds "other long sanctioned establishments and unquestioned rights with which fraud and violence may claim a fearful connection." The South is not responsible for its slavery.

15. He enters into a discussion of the nature of sovereignty, and of the sovereign powers which had been surrendered by the States.

16. He makes a distinction between the form of a new State government and the laws of that government respecting slavery.

17. The omission contains remarks upon the suffrage for women as an essential in the definition of a republican State. His argument is that abstract definitions cannot be of great weight in the discussion.

18. Pinkney argues at some length here that the word "migration" in this clause does not apply to slaves and their movement from State to State.

19. Senator Burrill.

20. "We must do the South the justice to admit that in this struggle over constitutional questions it did not indulge

in the verbal quibbling which became more and more the rule in such debates. It placed itself openly, and without any duplicity, on the broadest basis upon which it could take position. It denied to Congress the least shadow of right to make the admission of a Territory as a State of the Union dependent upon any conditions whatever. This view was not based upon certain clauses of the Constitution, but on the nature of the Union—that is on state sovereignty.

. . . . . .

"On this basis the whole argument for the general, as well as the specific, cases can be condensed into four short sentences: The federal government has only the powers granted it by the sovereign States; newly admitted States become members of the Union with equal rights; no other grants of power can therefore be demanded from them than those voluntarily made by the thirteen original States, and exactly stipulated in the Constitution; no one affirms that the thirteen original States gave up the right to decide whether slavery should be permitted or forbidden within their boundaries."—Von Holst's *Constitutional History of the U. S.*, vol. i., pp. 364, 365.

"From the nature of the Union, then, an argument was drawn which the reasons advanced in behalf of the limitation shook, but could not overthrow. Charles Pinckney affirmed with great keenness that the Constitution authorized the admission of new States 'into *this* Union,' that is, into the Union as it then was. He went on to say that it was an undeniable fact that the rights of the thirteen original States under the Constitution had been absolutely equal. No one will deny that the Constitution could never have come into being if this had not been the case. It is therefore no longer *this*, but a substantially different, Union, if the members of it are to have different rights. That the thirteen original States had and have to-day the right to forbid or allow slavery, will not be

questioned. If this right is taken away from newly-admitted States, then the Union evidently consists no longer of equal members. But if Congress has the power to deprive newly-admitted States, of a substantial right belonging to the original States, it can do the same thing with other rights. No boundary can be drawn, if the principle is once admitted."—Von Holst's *Constitutional History of the U. S.*, vol. i., pp. 368, 369.

"But the two great speeches which stood out before all others, and were regarded as masterpieces of their kind, were delivered, the one in defence of slavery and the South, by William Pinkney, of Maryland, and the other on behalf of freedom and the North, by Rufus King, of New York."—MacMaster's *U. S. History*, vol. iv., p. 587.

"The most eloquent and distinguished man of his day in the United States, if we may credit his contemporaries, was Mr. Pinkney, of Maryland. His fame has descended to us in its fulness of glory as an orator, statesman, and advocate.

"He was, at the time of his sudden and premature death, a member of the United States Senate, and admitted to be there unrivalled in the power and beauty of his forensic efforts. But he spoke rarely in that body, only on some important occasion or question, and then only after the most laborious and thorough preparation, not merely in regard to the arguments and illustrations, but in the general construction of his speech, and especially in the preparation of those passages, including the peroration, which were intended to electrify his audience.

"That Mr. Pinkney ranked as first at the bar of the Supreme Court, composed of such distinguished lawyers as David B. Ogden, John Wells, Josiah Ogden Hoffman, and Thomas Addis Emmet, of New York, Daniel Webster, of Massachusetts, Chapman Johnson, of Virginia, William Wirt and General Walter Jones, of Washington, and others of similar calibre, is sufficient evidence of his great ability as a jurist

and his extraordinary powers as a speaker. His arguments before that tribunal where sat a Story, a Johnson, a Livingston, and a Washington, presided over by a Marshall, were learned, logical, compact, and strong; but, not content with strength and solidity, he took infinite pains to make them attractive and more effective by the more elaborate ornamentation. He well knew the effect of glowing passages of eloquence, even in a solid legal argument,—diamonds set in gold,—upon a promiscuous, or even a select, intelligent, and refined audience. Nor did he undervalue those echoes of admiration which his electric oratory sometimes, indeed, almost invariably, called forth; they were delicious music to his ear.

"It is related of Mr. Pinkney that he was very desirous that the splendid passages in his speeches, which he took so much pains to prepare, should be thought to be the impromtu inspirations of his genius, and not the studied productions of midnight toil; and that to give the appearance of this, he would sometimes resort to the ruse, on the morning of the day he was to speak in the Senate or Supreme Court, of mounting a horse, riding some miles into the country, returning and entering the Senate or court, whip in hand, booted and spurred, with the appearance of haste, just at the moment he was expected to rise and speak, as if he had forgotten that he was expected to occupy the floor, and had come wholly unprepared, and at once go on with his splendid display of oratorical power fragrant with the oil of the midnight lamp.

"On the great Missouri question, Mr. Pinkney took the lead in the Senate in favor of the Compromise, opposed to Rufus King, who led the opposition to the admission of Missouri as a slave State. His speech on that occasion was one of the greatest efforts of his legislative life; but another, which he made many years before, denouncing slavery and slave-holders for maintaining it, was the best answer to it.

"Mr. Pinkney had a very extensive and lucrative business

before the Supreme Court,—greater than that of any other member of that bar—which demanded so much of his time and labor that he had little to spare for the Senate. And this was somewhat singular, as he had spent many years, from 1796 to 1811, as Minister at different times, to England, and in 1818 to Russia and Naples.

"His biographer and nephew speaks of the 'punctilious and studious attention to dress, which he acquired in foreign courts, and which he retained to the close of his life.' He was not less distinguished for his exquisite taste in dress, the faultless cut of his garments, the delicate tint of his gloves, the gossamer fineness of his ruffles and pocket-handkerchiefs, —in short, for the high fashion and fine material of his costume,—than he was as an eminent lawyer, able statesman, and refined gentleman.

"His death was startlingly sudden; but, in the words of his biographer, 'he fell in his might, before the tribunal he delighted to address, and on the arena he most loved to tread.'"
—Sargent's *Public Men and Events*, vol. i., pp. 33–35.

"There he made his immortal speech on the Missouri Compromise, the greatest speech ever delivered in the United States Senate. Governor Burton, of North Carolina, gave me an account of this speech forty years since. He said he (Burton) was at that time a member of the House of Representatives in Congress. There was great anxiety to hear Pinkney, and the Senate chamber and galleries were crowded to excess. Governor Burton sat down on the carpet, the only seat he could get. He said the first part of Pinkney's speech was entirely rhetorical and fanciful, and he thought to himself what a fool he was to be sitting in the middle of the Senate Chamber on the carpet listening to such a speech. But soon afterwards Pinkney entered into the argument of the case, and he was thrilled and overwhelmed by his logic and eloquence."
—From Governor Perry's *Sketches of Eminent Americans*.

WENDELL PHILLIPS.

1. Wendell Phillips was born in Boston, Mass., Nov. 29, 1811. He was educated in the Boston Latin School and at Harvard University, graduating from Harvard in 1831. He was noted in college for his skill in elocution and debate, though he gave no indication of the spirit of a reformer. As a student he was particularly fond of history, and he gave special attention in his reading to the history of the English and American revolutions. After a course in the Harvard Law School he was admitted to the bar in 1834. He was said to have been well equipped for the profession of the law in all respects save one,—that was, he had no love for the law, and no ambition for success at the bar. The exception was decisive, and the clients which he waited for did not come. He had said that if no clients came he would throw himself "heart and soul into some good cause," and devote his life to it. The "cause" came in the claim of the slave. The incident which won Phillips to the anti-slavery cause occurred on October 21, 1835, when, looking from his office window, he saw a "respectable mob" dragging Garrison through the street with a rope around his waist. Garrison was rescued from a violent death only by the Mayor's locking him in jail for safety. From that day Phillips was an abolitionist. The speech on Lovejoy, two years later, brought Phillips into public notice, and from then until the end of the slavery conflict he devoted his talents and eloquence to the anti-slavery cause. He became a follower and co-worker of Garrison, holding that all slavery was a sin, that emancipation was an immediate duty, that colonization was a delusion, and he combated and denounced the statesmanship which sought to suppress the agitation, and he urged that slavery and liberty could not be at peace under the same government. With the other Garrisonians, he regarded the slavery com-

promises of the Constitution as immoral and not binding on the conscience ; that no power of civil government should be used in support of slavery.

In 1864 Phillips opposed the re-election of Lincoln, and his criticisms of Lincoln were among his severest utterances. They were caused by what Phillips considered the President's recreant conservatism. In 1865 he separated from Garrison, opposing, while Garrison favored, the dissolution of the American Anti-Slavery Society. In the later years of his life Phillips devoted his talents to the Labor Movement, Temperance Reform, and other measures of a radical character. He became the Labor candidate for Governor of Massachusetts in 1870. He died on February 2, 1884.

One of the most noted orations of the later years of Phillips' life was his address before the Harvard Chapter of the Phi Beta Kappa, on "The Scholar in the Republic."

2. Historical Note.

On November 7, 1837, Rev. Elijah P. Lovejoy was shot by a pro-slavery mob at Alton, Illinois, while attempting, under sanction of police powers, to defend his printing-press from destruction. When the news of this reached Boston, William Ellery Channing headed a petition to the Mayor and Aldermen, asking the use of Faneuil Hall for a public meeting. The hall was refused. Dr. Channing then wrote a strong public letter to his fellow-citizens, which resulted in a meeting in the old Court Room. Resolutions were here drawn up, and measures were taken to secure a larger number of names to the petition for Faneuil Hall. The request for the use of the Hall was then granted. The meeting was held on the 8th of December, and organized with Hon. Jonathan Phillips, a friend of Channing and a kinsman of Wendell Phillips, as chairman. Dr. Channing made a brief and eloquent address. Resolutions drawn by him were read by Hon. Benjamin F.

Hallet, and were seconded in a forcible speech by George S. Hillard. At the conclusion of Mr. Hillard's speech, the Attorney General of Massachusetts, Hon. James T. Austin, was seen elbowing his way toward the great gilded eagle in the gallery over the main entrance with the evident purpose of making a speech not on the program. Dr. Carlos Martyn, in his *Life of Phillips*, says: "He at once, with practiced skill, began an harangue, clearly intended and adroitly adapted either to break up the meeting in a row, or array it against the objects of its callers. He claimed that there was 'a conflict of laws' between Missouri and Illinois; compared the slaves to a menagerie, with lions, tigers, a hyena, an elephant, and monkeys in plenty, and compared Lovejoy to one who would break the bars and let loose the caravan to prowl about the streets; talked of the rioters of Alton as akin to the 'orderly mob' which threw the tea into Boston Harbor in 1773, and declared that Lovejoy was 'presumptuous' and 'impudent,' and had 'died as the fool dieth;' and, in direct and insulting allusion to Dr. Channing, closed by asserting that a clergyman with a gun in his hand, or one mingling in the debates of a popular assembly, was marvellously out of place."

This speech produced great excitement throughout the Hall. Austin was not without numerous supporters. Probably one third of the audience had come with intentions of positive hostility toward the object of the meeting. Another third were curious onlookers who yet were bent on fair play and free speech. For an eloquent description of the scene and Phillips' attitude, see George William Curtis' speech on Phillips, vol. iii., *Orations and Addresses.*

3. After the destruction of his second press, Lovejoy had appealed to the Mayor of Alton for protection. This officer said that he had no police force. Lovejoy replied: "Very

well, I will get another press, and with your consent I will enroll a special police force in the interest of law and order." The Mayor assented to this. Lovejoy was thus standing on his legal rights.

4. "In the annals of American speech, there had been no such scene since Patrick Henry's electrical warning to George III. It was the greatest of oratorical triumphs, when a supreme emotion, a sentiment which is to mould a people anew, lifted the orator to adequate expression. Three such scenes are illustrious in our history. That of the speech of Patrick Henry at Williamsburg, of Wendell Phillips in Faneuil Hall, of Abraham Lincoln in Gettysburg,—three and there is no fourth. They transmit, unextinguished, the torch of an eloquence which has aroused nations and changed the course of history, and which Webster called 'noble, sublime, god-like action.'"—George William Curtis, Oration on Phillips, vol. iii., pp. 280–281, *Curtis' Orations.* The whole of Curtis' oration on Phillips should be read in connection with this speech of Phillips.

5. The omitted paragraph refers to the excuse which had been made for the Alton mob on the ground that there was a "conflict of laws" between Missouri and Illinois. Phillips asserted that no lawyer would make such a plea or affect to believe that the laws of the two States were really in conflict in the case at hand. And if they were how could Missouri extend her jurisdiction over Illinois? "The Czar might as well claim to control the deliberations of Faneuil Hall."

6. Referring to the men who fell in the "Boston massacre" before the British troops.

7. Rev. Hubbard Winslow in his discourse on "Liberty" defined liberty to be "liberty to say and do what the prevail-

ing voice and will of the brotherhood will allow and protect." See Phillips' *Addresses*, vol. i.

8. Hugh Peters, born in Cornwall, England, in 1598, in 1635 emigrated to Boston, and became minister to the Salem Church in 1636. In 1641 he became the agent of the Colony in England, and later filled important offices under Cromwell. After the Restoration, in 1660, he was imprisoned in the Tower, was tried and convicted as an accomplice in the death of Charles I. He was hung at Charing Cross, October 17, 1660. Peters was one of the most pronounced of Puritan republicans.—*Century Cyclopædia of Names.*

Cotton was a Puritan minister of the time and type of Peters.

9. Bold and active Puritan ministers of the previous century.

10. "When the whirlwind of applause which followed the orator's conclusion had rolled away, the Chairman put the resolutions, and they were carried by an overwhelming vote. Thus was defeat turned into victory by the genius of Phillips, as, years afterwards, that other defeat at Winchester was turned into victory by the magnetism of Sheridan."—Martyn's *Life of Phillips*, p. 101.

Oliver Johnson, who was one of Mr. Phillips' auditors that morning, remarks:

"I had heard him once before (in his first Anti-Slavery speech at Lynn), as a few others in that great meeting probably had, and my expectations were high; but he transcended them all and took the audience by storm. Never before, I venture to say, did the walls of the old 'Cradle of Liberty' echo to a finer strain of eloquence. It was a speech to which not even the completest report could do justice, for such a report could not bring the scene and the manner of the speaker

vividly before the reader. It was before the days of phonography, and the report caught only a pale reflection of what fell from the orator's lips."—Johnson's *Garrison and the Anti-Slavery Movement*, p. 229.

"Wendell Phillips was not less interested than Garrison in the emancipation of the slave, and the chief efforts of his life were directed toward that end. But he was by nature and by art an orator, even more than a reformer. To speak was his life work. As Horace Greeley said, 'Phillips made men think it was easy to be an orator.' He did not put the form before the spirit; he was no mere rhetorician, hunting for a cause whereon to display his eloquence; but he would have spoken gracefully and strongly upon any question which aroused his interest. So, indeed, he did. His intellectual equipment, and, to a certain extent his tastes, were academic; like Sumner he was fond of classical themes and allusions, and when occasion demanded, he could take pleasure in mere external finish. Well read in ancient and modern literature, a master in the use of invective and epigram, possessed of wit, which both Garrison and Sumner lacked, he charmed the cultivated and impressed the ignorant. A winsome personal presence, and a serene, undisturbed manner, added to the attractiveness of his words, and enabled him to speak before great audiences of enemies."—Richardson's *American Literature*, vol. i., pp. 250–251.

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JOHN QUINCY ADAMS.

1. John Quincy Adams, the sixth President of the United States, was the eldest son of John Adams, the second President. He was born at Braintree, Mass., July 11, 1767. He received, under his father's influence, a special training for diplomacy and statesmanship. He visited Europe with his father in 1778 and again in 1780, attending for a time the University of Leyden. After some time spent in Holland, London, and Paris, he returned home, took a course at Harvard, and graduated from that institution in 1788. He was admitted to the bar in 1791. Having turned his attention to politics and to our foreign relations, he was appointed by Washington as ambassador to the Hague. By Washington's advice, President Adams sent his son as our minister to Prussia, where he succeeded in negotiating a commercial treaty. In 1801, young Adams was recalled by Jefferson ; in 1802, he was elected to the Massachusetts Senate, and in 1803, to the Senate of the United States. He was elected to the Senate as a Federalist, and it may be considered that for four years he was an adherent of that party. But he broke with the Federalists by his support of Jefferson's Embargo in 1807. On account of this disagreement with his party and his State Legislature, he resigned his seat in the Senate, and from 1807

to 1809 he was professor of rhetoric and belles-lettres in Harvard University. In 1809, Adams was appointed by President Madison as ambassador to Russia, an appointment which he accepted against the wishes of his father. After acting as one of the American negotiators in the Treaty of Ghent, Adams served two years (1815–17) as United States minister at London, when he returned to take the office of Secretary of State under Monroe. His most distinguished service in this office was in his negotiation of the treaty by which we acquired Florida and defined the boundaries of Louisiana. He was elected president by the House of Representatives, upon the failure to elect of the Electoral College. He was defeated for re-election in 1828, and for two years after March 4, 1829 he lived in retirement at Quincy, Mass. In 1831 he was elected to the lower house of Congress, chiefly on account of his opposition to secret societies. During his Congressional career, from 1831 to 1848, he was independent of party, and he distinguished himself particularly by his persistent advocacy of the right of petition and his opposition to the "gag rule." He was not one of the Garrisonian Abolitionists, for whom he had many words of criticism, but his services to the anti-slavery cause were recognized, notably in his opposition to the policy of shutting off anti-slavery petitions and discussions, and in his opposition to the annexation of Texas, or to any form of slavery extension. He died from a paralytic stroke, falling upon the floor of the House, February 23, 1848, and his last reported words were, "This is the last of earth."

2. Historical Note:

The abolition agitation, which began in 1830 and 1831, gave rise to a number of petitions to Congress praying for the abolition of slavery in the District of Columbia and for other constitutional restrictions on slavery. For some time these were respectfully referred to the proper committee, which regularly

reported adversely. As the petitions became more numerous they were buried in committee without report. By 1835 the temper of the House had become still more hostile, and the petitions were summarily laid on the table without being referred. Even this, however, did not satisfy the Southern members, and on February 8, 1836, Mr. Henry L. Pinckney of South Carolina, moved :

1. That all petitions should be referred to a select committee.

2. That this committee be instructed to report that Congress has no constitutional power to interfere with slavery in the States ; and,

3. That Congress ought not to interfere with slavery in the District of Columbia.

On May 18, 1836, the Special Committee reported according to instructions, and it added another resolution, for " the purpose of arresting agitation and restoring tranquillity to the public mind." The additional resolution was the first of the famous " gag rules " of Congress, and was as follows : " That all petitions, memorials, resolutions, propositions, or papers relating in any way to the subject of slavery shall, without being either printed or referred, be laid upon the table, and that no further action whatever shall be had thereon." On May 25th, these resolutions were adopted by the application of the previous question. Mr. Adams appealed for an opportunity to speak upon the question but it was denied. After a protest against his being gagged, and a parliamentary appeal from the decision of the Chair, it was decided that the main question should be put.

" The first resolution was then read as follows :

" ' *Resolved*, That Congress possesses no constitutional authority to interfere in any way with the institution of slavery in any of the States of this confederacy.'

" Mr. Adams said, if the House would allow him five

minutes time, he pledged himself to prove that resolution false and utterly untrue.

"Mr. Adams was here called to order in different parts of the House and resumed his seat. The question was then taken and the resolution was adopted by a vote of 182 to 9."*

Although Mr. Adams was denied the privilege of speaking on this resolution, an opportunity occurred on the same day which he was quick to improve. A joint resolution from the Senate came up in the House, authorizing the President of the United States to cause rations to be distributed to suffering fugitives from Indian hostilities in Alabama and Georgia. This resolution seems far removed from the subject of slavery and the right of petition, but Adams made it the occasion of one of his most notable speeches, in which he not only vindicated the freedom of debate in the House, but he took the position that Congress, by the exercise of the war power under the Constitution had the constitutional authority to abolish slavery within the States. Among the constitutional statesmen of his day Adams stood alone, so far as we know, in advocacy of this doctrine; but his theory was remembered by Mr. Lincoln and his advisers in 1861–65, and it may be said that the constitutional power of emancipation as a war measure was based upon the doctrine here enunciated by John Quincy Adams.

3. James K. Polk, of Tennessee, was Speaker of the House.

4. Adams here refers to the great latitude in discussion which had been allowed in the Committee of the Whole, noticing an altercation on an irrelevant matter between two members from Maryland. This discussion about the laws and constitution of Maryland had occupied hours without interruption or call to order.

* *Congressional Debates*, vol. xii., part iv., p. 4031.

5. This constitutional position with reference to the power of Congress over slavery within the States was one very generally accepted by the country. It had been announced by the first Congress, March 23, 1790, on the occasion of the presentation of a memorial from the Society of Friends, of Philadelphia. It was assented to by Webster in his reply to Hayne, and even the Liberty Party men of 1840 and 1844, and the Free Soilers of 1848, did not combat this constitutional interpretation. It was from a feeling that this was a true exposition of the Constitution that Garrison and his followers denounced that instrument as "a covenant with death and a league with hell." John Quincy Adams' position was unique in his time, and this makes his speech of special historical interest.

6. The final portions of this speech are devoted to the dangers of war with Mexico and to the resistance of Georgia to the authority of the National Government.

See Gales and Seaton's *Register of Congressional Debates*, vol. xii., part iv., p. 4035.

JOHN C. CALHOUN.

1. For sketch of Calhoun, see vol. i., Notes, p. 393.

2. Historical Note on the Compromise of 1850.

The situation in 1850 may be briefly indicated as follows:

California was applying for admission with a free constitution, without the preliminary of a territorial organization, or an enabling act, by Congress.

There were claims and denials as to the boundaries of Texas.

There were complaints on the part of Southerners about

escaping slaves, aided and abetted in the North, with threats of disunion.

There was continued and persistent agitation for the abolition of slavery and the slave trade in the District of Columbia and for congressional restriction of the inter-State slave trade.

The great issue was still unsettled as to whether the *Wilmot Proviso* should be applied to the territory acquired from Mexico. What should be the status of this Territory as to slavery? This was the territorial question.

Of all these questions and disturbances the territorial question was probably the most important and the most difficult of settlement. The question had been prominently and hotly discussed ever since it became known that the United States would receive new territory from the Mexican War.* Of this question there were four distinct possible solutions:

1. By the application of the Wilmot Proviso: Slavery should be excluded from the Territories by Congressional power.

2. By the application of the doctrine of Calhoun: slaves are property and it is the bounden duty of Congress to protect the rights of the slave-holder within the Territory, the same as the law protected other property. Congressional power over the Territories was positive and absolute, and this power could be exercised to protect slavery but not to exclude it.

3. By the extension of the Missouri line. This, it was held, would be an equitable division of the territory between the two sections.

4. By the principle of "popular sovereignty." Leave the question to be settled by the settlers. Each of these solutions

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* See p. 382, Note 4, and Speeches of Calhoun and Webster on Oregon Question.

had its earnest advocates, and there were prominent threats of disunion in the emergency of disappointment.

The territorial question, *i.e.*, the status of the Territories as to slavery, is the subject which gave historic interest to the Oregon debate. The issue had been then warmly contested, and, as for all territory except Oregon, it had been left unsettled. After weeks of debate in the Senate on the organization of Oregon, the bill for that purpose was referred to a special committee with Clayton, of Delaware, as chairman. This Committee reported a bill providing a territorial government for Oregon, New Mexico, and California. This bill prohibited slavery in Oregon, but the question as to whether the Constitution permitted slavery in New Mexico and California was to be referred to the Territorial Courts with the right of appeal to the Supreme Court of the United States. This foreshadows the Dred Scott Decision. Thomas Corwin, a Senator from Ohio, remarked, with caustic wit, that this bill proposed "not to enact a law but only to enact a law suit."

It was in the same debate on the Oregon bill that Senator Douglas, of Illinois, proposed an amendment to the bill extending the Missouri line to the Pacific. The purpose of this amendment was clear. The Missouri line applied only to the Louisiana purchase. Oregon was not a part of this purchase; neither were New Mexico and California, recently acquired from Mexico. The slavery extensionists did not hope to secure a footing for slavery in Oregon. Their design in this amendment was well expressed by Webster. "The truth is," said he, "this is an amendment by which the Senate wishes to have now a public legal declaration not respecting Oregon, but respecting the newly acquired territories of California and New Mexico. It wishes now to make a line of slavery which shall include those two territories." That is, while the restrictionists were to be allowed a sure thing on Oregon, all effort on their part for restriction in New Mexico and California was

to be forestalled. The extensionists would thus make sure of slavery in the Mexican cessions.

One other point. By the law of New Mexico and California existing before they were detached from Mexico, these Territories were free. By the law of nations it is the rule that the law in a territory coming to a nation by conquest or purchase, remains until changed by the new owner. The restrictionists, therefore, claimed that there was an express law prohibiting slavery in California and New Mexico until we ourselves should change it. On this point Calhoun contended that, immediately the treaty was made, the Constitution superseded the laws of Mexico in the transferred territory and legalized and protected slavery there. Benton called this Calhoun's "dogma of the transmigratory function of the Constitution, and the instantaneous transportation of itself in its slavery attributes into all acquired territories." Thus there was doubt and dispute as to what was the law of the Territories and as to the status of the master with his slave. After the Oregon discussion the proposition to extend the Missouri line to the Pacific, while still urged by some, was not so prominently considered, and the contention may be said to have been simplified by 1850 to three proposals :

1. Extension under Federal protection.
2. Restriction by Federal power.
3. Non-Intervention.

In the midst of the difficulties and contentions Clay brought forth his plan "to secure the peace, concord, and harmony of the Union, to adjust amicably all questions of controversy between the States arising out of the institution of slavery, upon a fair equality and just basis." Clay's resolutions urged the following :

1. The admission of California free.
2. As slavery does not exist by law and is not likely to be introduced into any of the territory acquired from Mexico it is

inexpedient for Congress to provide by law, either for its introduction into, or its exclusion from any part of that Territory, and that territorial governments should be established for those Territories without restriction as to slavery.

3. The determination of the Texan boundary.

4. That the United States should provide for the payment of the public debt of Texas contracted prior to annexation, for which Texas was to relinquish her claim to any part of New Mexico.

5. That it is inexpedient to abolish slavery in the District of Columbia, while that institution existed in Maryland, without the consent of that State, without the consent of the people of the District, and without just compensation to the owners of the slaves.

6. That it is expedient to prohibit the slave trade within the District of Columbia.

7. That more effectual provision should be made for the rendition of fugitive slaves.

8. That Congress has no power to prohibit or obstruct the inter-State slave trade.

These proposals of Clay were debated in the Senate for two months, when they were referred to a select committee of thirteen of which Mr. Clay was chosen chairman. On May 8th this Committee reported three distinct bills:

1. The so-called "Omnibus Bill," carrying,
   (*a*) the admission of California;
   (*b*) the organization of New Mexico and Utah as Territories without restriction as to slavery;
   (*c*) the adjustment of the Texas boundary line, and the payment of $10,000,000 to Texas as an indemnity for her claim on New Mexico.
2. A stringent Fugitive Slave Law.
3. A bill prohibiting the slave trade in the District of Columbia.

The "Omnibus Bill" having been taken up was so repeatedly amended that finally nothing was left of it except a provision for a territorial government for Utah. It passed the Senate in this shape on July 31st. Each of the measures of the "Omnibus Bill" might have carried a majority but it became evident that all combined in one could not. While the combined bill failed, its separate measures went through one by one.

A bill fixing the Texas boundary, with the $10,000,000 indemnity for Texas was passed on August 9th. The Senate was spurred to this by the avowed intention of the Governor and legislature of Texas to occupy the disputed territory.

The bill for the admission of California passed the Senate on the 13th of August. Ten Southern senators thereupon signed a protest against the broken equilibrium.

The bill establishing a territorial government for New Mexico passed the Senate on the 15th of August. It provided that the Territory might be subdivided at any time at the discretion of Congress, and that any State formed out of the Territory should be admitted into the Union with or without slavery as her Constitution should then prescribe. Chase had moved an amendment applying the Wilmot Proviso to this territory, but it was rejected.

The Fugitive Slave Law passed on August 26th, by a vote of more than two to one.

All these bills passed the House and became laws by the signature of President Fillmore, by September 18th, and two days later a bill became a law suppressing the slave trade in the District. Thus all the measures proposed by Clay in January were secured before the adjournment of Congress on September 30, 1850.

For further historical information on this period, consult Rhodes' *United States History since 1850*; Schouler's *United States History*, vol v.; Wilson's *Division and Reunion*; "The Anti-Slavery Struggle," pp. 16–21 of this volume.

In special reference to Calhoun's speech, note the following:

Jenkins' *Life of Calhoun*, pp. 313–440.

Schouler's *United States History*, vol. v., pp. 157–166.

Wilson's *Rise and Fall of the Slave Power*, vol. ii., pp. 238–240.

Von Holst's *Constitutional History of the United States*, vol. 1846–1850, pp. 474–496.

Benton's *Thirty Years' View.*

Stephens' *War between the States*, vol ii., pp. 196–211.

Von Holst's *Calhoun*, pp. 335–352.

Schurz' *Clay*, vol ii., pp. 315–339.

Wilson's *Division and Reunion*, pp. 168–174.

Seward's *Works*, vol. iv., pp. 15–30 *et seq.*

Calhoun's *Works.*

3. He refers to California, New Mexico, and Utah, territorial organizations for which had been under discussion.

4. "To exclude the South" meant to Calhoun's mind, to exclude slavery. Webster, in his speech on the Oregon bill, very effectively answers this view. He says: "Gentlemen say we deprive them of participation in Territories acquired by common service and common exertions. How deprive? Of what do we deprive them? Of the privilege of carrying their slaves to the new Territory. They say we deprive them of the privilege of going into this Territory with their 'property.' What do they mean by 'property.' We certainly do not deprive them of the privilege of going into these new Territories with all that in the general estimate of human society, in the general and common and universal estimate of mankind, is esteemed property. They have in their States peculiar laws which create property in persons, while everybody agrees that it is against natural law. They mean, then, that they cannot go into the Territories of the United States carrying their own peculiar local law which creates property in

persons. This is all the ground of complaint they have. . . . The demand of the South goes upon the idea that there is an inequality unless persons under this local law, holding property by the authority of that law, can go into new territory and there establish that local law to the exclusion of the general law. All the Southern people may go into the new Territory. The only restraint is they may not carry slaves there and continue the relation. They say this shuts them out altogether. There can be nothing more inaccurate in point of fact than this statement. Who settled Illinois? Who settled Indiana? Immigrants from Kentucky, Virginia, Tennessee, and the Carolinas, equally and with equal privileges with all other sections."—Speech on the Oregon Bill, Aug. 12, 1848.

Webster concluded his Oregon speech with the assertion that he would stand "for the absolute power of Congress over the Territories."

5. The preservation of this political equilibrium between the slave States and the free had for some time been considered essential by the Southern section. Henry A. Wise, of Virginia, in referring to the Texas question and further acquisitions in the southwest, said, in the House of Representatives, on January 26, 1842:

"True, if Iowa be added on the one side Florida will be added on the other. But there the equation must stop. Let one more northern State be admitted and the equilibrium is gone, and gone forever. The balance of interests is gone—the safeguard of American property, of the American Constitution, of the American Union vanished into thin air. This must be the inevitable result, unless by a treaty with Mexico, the South can add more weight to her end of the lever. Let the South stop at the Sabine while the North may spread unchecked beyond the Rocky Mountains and the Southern scale must kick the beam." See Seward's speech of

March 11, 1850, in response to the idea of preserving the equilibrium, Seward's *Works*.

6. He refers to Minnesota, a part of which was within the Northwest Territory.

7. Calhoun's Constitutional doctrine was that the Constitution protected slavery in the Territories. A congressional prohibition on slavery there was unconstitutional, and before such prohibition was begun this territory was the possession of the Slave States and open to the introduction of their peculiar institution. He considers that the restriction had deprived the South of its common possession. Compare his opinion on this subject in 1850 with that of 1820.—See Von Holst's *Life of Calhoun*, p. 74.

8. Is this claim on behalf of the National Government denied by the Virginia and Kentucky Resolutions of 1798? If the claim were established would that indicate a change in the character of the Government from its original form?

9. Does Calhoun here concede that it was in vain that South Carolina had stood for the protection of the State and against central encroachment in 1830–33? Or, does he wish to indicate that subsequent developments had proven the wisdom of that notable contention of South Carolina?

10. Calhoun was the first pro-slavery leader who came to the defence of slavery as a good thing in itself. He pronounced it a "positive good"; that slavery was "a political institution essential to the peace, safety, and prosperity of the States in which it exists." See his Speech on the Abolition Petitions, February 6, 1837; his Diplomatic Correspondence, Letter to Packenham, 1844; Von Holst's *Life of Calhoun*, pp. 165–175; Jenkins' *Life of Calhoun*, pp. 380–384. Governor McDuffie's Address to the Legislature of South Carolina

contains a similar defence of slavery.—See *American History Leaflets*, Lovell & Co., N. Y.

11. The New England Anti-Slavery Society was organized in 1831, and the American Anti-Slavery Society in 1833. But their agitation had not attracted general attention until the date mentioned by Calhoun. By that time anti-slavery petitions were pouring in on Congress.

12. See Speech on Abolition Petitions, February 6, 1837.

13. The schism between North and South in this Church occurred in 1844, a chism not yet healed. The occasion was the suspension of Bishop Andrew by the Baltimore Conference, for refusing to emancipate slaves coming to him by his wife.

14. The plan of Clay may be seen in his resolutions. See Historical Note, p. 379. President Taylor's plan was to admit California with her free Constitution; wait on the people of New Mexico, allowing them to act and form their own institutions, before Congressional introduction of the sectional topic. That is, let the question rest in the Territories until they were ready to be admitted as States. This was not congressional extension of the Wilmot Proviso by declaration, or act, but was the same in effect. The laws of Mexico prohibiting slavery would have been recognized by the administration as operative in New Mexico, which would have enccuraged the formation of a free State constitution, like that of California. But in forming the State constitution, the settlers were to be left free. How did this plan differ from that of "Popular Sovereignty," of 1854?

15. Clay had briefly discussed his resolutions, seriatim, on January 29, 1850. He spoke again briefly upon the admission of California and other related topics, on February 15, 1850, and again at length on May 13th. See note on Clay p. 407.

16. In the parts omitted Calhoun discussed the Executive plan, which he calls the "executive proviso," and this, he says, is more objectionable to the South than the *Wilmot Proviso*. The president's plan seeks to allay opposition in the South by not openly asserting the Wilmot Proviso, but effecting the same thing by taking special care to exclude Southern settlers "by holding up to them the dread of having their slaves liberated under the Mexican laws." He then proceeds to combat the theory of "popular sovereignty," holding that the power of legislating for the Territories was vested in Congress, not in the inhabitants of the Territories. He objects to the process of state-formation in California, as "revolutionary and rebellious in its character, anarchial in its tendency and calculated to lead to the most dangerous consequences." He describes what had been the uniform rule in the formation and admission of States and compares the case of California with that of Michigan and that of Tennessee. See Jenkins' *Life of Calhoun*, pp. 431–437; Calhoun's *Works*.

17. See remarks of Seward on the equilibrium, speech of March 11, 1850, *Works of Seward*. Such an amendment as Calhoun considered necessary to save the Union he had elaborated in his "Discourse on the Constitution and Government of the United States. It proposed that there should be two presidents, one for external affairs and one for internal affairs, but that each should have a veto on all congressional legislation. Von Holst says of this, that "as a plan for saving the Union, it was one of the most monstrous political absurdities ever devised;" and that "Calhoun's only plan of saving the Union was in reality a dissolution of the Union."—Von Holst's *United States Constitutional History*, pp. 495–496. See also Calhoun's *Works*, and Rhodes' *United States History*, vol. i., p. 129.

18. "When, after the reading of the speech, supported on

the shoulders of two of his friends, he tottered out of the Senate Chamber, the doors that shut behind him closed on the second period of the history of the Union under the Constitution, in which the Star of the South had mounted to the zenith." —Von Holst, *Constitutional History of the United States*, p. 497, Vol. 1846–50.

"The floor of the Senate was assigned to Calhoun for the 4th of March, to speak on the compromise resolutions. Long battle with disease had wasted his frame, but, swathed in flannels, he crawled to the Senate Chamber to utter his last words of warning to the North, and to make his last appeal for what he considered justice to his own beloved South. He was too weak to deliver his carefully written speech. At his request, it was read by Senator Mason. Calhoun sat, with head erect and eyes partly closed, immovable in front of the reader; and he did not betray a sense of the deep interest with which his friends and followers listened to the well-matured words of their leader and political guide. This was Calhoun's last formal speech; before the end of the month he had passed away from the scene of earthly contention. The speech is mainly interesting as stating with precision the numerical preponderance of the North, the reasons of Southern discontent, and the forebodings of his prophetic soul in reference to the future." —Rhodes' *History of United States Since 1850*, vol. i., pp. 127–128.

"Calhoun's speech, long promised and carefully written out, was the last great effort of his life. The gloom of the sick chamber in which he prepared it deepened its raven gloss; its dismal croak was of disunion. Another crowded auditory listened to that speech, on the 4th of March, which Mason, a fellow-Senator, read from the revised proof; but Calhoun was present and listened to the delivery, like some disembodied spirit reviewing the deeds of the flesh. It was a strangely haunting spectacle. The author turned half round, and listened

as though all were new to him, moving not a muscle of his face, but keeping his immovable posture,—pale, skinny, and emaciated that he was,—with eyes partially closed, until the last words were uttered and the spell was broken."—Schouler's *United States History*, vol. v., pp. 165–166.

DANIEL WEBSTER.

1. For a sketch of Webster, see vol. i., p. 385.

2. Historical Note :

This speech of Webster's was delivered in the United States Senate on the 7th of March, 1850. It is the only speech in literature, so far as we know, that is known by the date of its delivery. It is also called the "Speech on the Constitution and the Union."

In approaching the study of this speech, it is important to notice Webster's record upon the subject of slavery and slavery extension. While unwilling to disturb the social relations of the South, he had not hesitated to speak against "slavery in the abstract," and he had taken a positive stand against slavery extension. He considered Southern slavery a Southern question. In 1819, during the Missouri struggle, he prepared the Massachusetts Memorial to Congress, praying that body to exercise its constitutional powers to prohibit slavery in the Territories. He put into that paper all there was to be said against allowing slavery to gain a foothold in a new country. In 1820, in his celebrated speech on the "First Settlement of New England," he gave to anti-slavery literature one of its most vehement passages against the iniquity of the slave trade. In 1830, in his reply to Hayne, he expressed the opinion that slavery was one of the greatest of evils, both moral and political, although he was willing to leave the domestic slavery of

the South where he found it; and in referring to the Ordinance of 1787, he considered it "highly wise and useful in legislating for the northwest country while it was yet a wilderness to prohibit the introduction of slaves." In his speech at Niblo's Garden, New York, March 15, 1837, after the annexation of Texas had come into public discussion, Mr. Webster gave a more notable public expression in opposition to slavery extension. He said: "Gentlemen, we all see that by whomsoever possessed, Texas is likely to be a slave-holding country; and I frankly avow my unwillingness to do anything which shall extend the area of the slavery of the African race upon this continent, or add other slave-holding States to the Union. When I say that I regard slavery as in itself a great moral, social, and political evil, I only use language which has been adopted by distinguished men, themselves the citizens of slave-holding States. I shall do nothing, therefore, to favor or encourage its further extension."

In 1842, while he was Secretary of State under Tyler, Webster conducted our negotiations with Great Britain in the case of *The Creole*. In his diplomatic correspondence in this case Webster held that it was the legitimate function of the general government to recover damages for slave-owners for losses incurred in the coast-wise slave trade whenever vessels of the United States, engaged in this trade, were driven by stress of weather or carried by unlawful force into British ports and there had their slaves set free. In support of the slave interest Webster asserted that "slaves are recognized as property by the Constitution of the United States in those States in which slavery exists." This was resented by Channing and denied as a constitutional proposition by the Liberty party men and Free Soilers. These held that slaves were recognized as property only in the States where slavery existed, and that by the law of those States, not by the law and Constitution of the United States; and even if the Constitution does recognize

slaves as property in those States where slavery exists, it does not follow that it recognizes them as such and supports that condition *outside of those States*. Anti-Slavery opinion censured Webster for his conduct of *The Creole* case.

In the Oregon debate Webster boldly favored congressional restriction on slavery. For an extract of his speech at this time see p. 389.

Such had been the record of Webster on the subject of slavery before his great speech on the 7th of March. It was, in the main, a record which had excited in the minds of the anti-slavery advocates expectations that he would speak helpfully and powerfully for their cause. It should be one of the purposes of the student of the 7th of March speech to determine to what extent Webster then changed his course, and in how far he was culpable for the change.

In the pamphlet edition the speech was dedicated as follows:

"With the highest Respect
and the Deepest sense of Obligation
I dedicate this Speech
to the
People of Massachusetts."

"His ego gratiora dictu alia esse; sed me *Vera pro Gratis* loqui, etsi meum *ingenium* non moneret necessitas cogit. Vellem equidem, vobis placere; sed multo malo vos salvos esse, qualicumque erga me animo futuri estis."*

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* "I know that there are other things to say more pleasing than these, but necessity compels me to speak the things that are true rather than the things that are pleasant, although my inclination does not so advise. I should, indeed, wish to please you, but I much prefer that you be safe, no matter in what disposition you may be toward me."

3. He here reviews historically the outbreak of the Mexican War, its results, the Mexican territorial cessions, the gold discoveries in California, the rapid settlement of that country, and the formation of a State government there. He refers, also, to the expectation on the part of the South that more slave territory was to be the result of the Mexican War, and now that California and New Mexico were apt to come in as free States, there was manifest disappointment.

4. He here discusses briefly the Greek and Roman grounds for slavery.

5. "The object of the instruction imparted to mankind by the Founder of Christianity was to touch the heart, purify the soul, and improve the lives of individual men," Webster says.

6. He refers to the schism in the Methodist Episcopal Church with expressions of regret.

7. Was this a true characterization of the Abolitionists? Would this passage justify Phillips in calling Webster a public man of "easy morality"?

8. In this omission Webster continues in the same vein of opposition to the vexatious impatience of the Abolitionists.

9. Webster goes on to say that this early opposition to slavery was even more pronounced at the South than at the North. The framers of the Constitution, considering slavery an evil, thought they had provided for its gradual extinction by allowing the importation of slaves to be cut off after 1808. Mr. Madison was especially anxious that the slave trade should be thus curtailed.

10. As further evidence of the anti-slavery sentiment of the formative period of the Constitution, Webster refers to the Ordinance of 1787, and Virginia's cession of the Northwest Territory and her vote to exclude slavery therefrom. He

answers Calhoun by saying that the Ordinance of 1787, the first "restrictive measure calculated to enfeeble the South," was enacted by the full concurrence of that section. The act was not an aggression. This historical fact was clear. Another clear historical fact was that the Convention of 1787 intended to leave Slavery "in the States as they found it."

(1) The Constitution recognized slavery as it existed in the States.

(2) Congressional prohibition of slavery in the Territories.

(3) Non-importation of slaves after 1808, with a view to the gradual extinction of the institution.

These three points, according to Webster, indicated the matters on which there was "entire concurrence of sentiment between the North and the South at the period of the adoption of the Constitution." He proceeds to discuss the reasons for the subsequent change in this sentiment.

11. In answering Calhoun on the point that the preponderance of power was in the North, Webster asserts that the Northern majority must have acted very liberally or very weakly. Northern power had never been exercised. He then goes on to show that the power of government had been exercised for the extension of territory for the sake of cotton culture and slavery, illustrating by the cases of Louisiana, Florida, and Texas. The resolution admitting Texas, March 1, 1845, provided that new States, not exceeding four in number, in addition to the State of Texas, might be formed out of the territory of that State. The States from this territory south of 36° 30′ were to be admitted slave or free, as they chose. Webster showed that this committed all of Texas to slavery. It was "fixed, pledged, fastened, decided, to be slave territory forever by the solemn guarantees of law." This was done, as Webster shows, by Northern votes, by the consent of Northern men.

12. Mr. Hamlin, afterwards Vice-President, 1861–1865.

13. Two members from Massachusetts voted for the annexation of Texas, Williams and Parmenter. See Proceedings of the House of Representatives, February 27, 1845.

14. The Hon. George W. Julian says, in a letter to the editor, with regard to this passage : "The district referred to was the one in which Dr. Palfrey was elected in 1847, and in which in the struggle for re-election two years later he failed of an election after repeated trials. The law required a majority of all the votes cast to elect, and he had only a plurality. The statement that the Free Soil Sentiment defeated the choice of any member was only true in the sense that in the division of the voters of the district between the Whigs, [Democrats?] and Free Soilers no candidate had votes enough to elect."

15. This term was used to describe the Northern wing of the Democratic party,—those opposed to Southern pro-slavery control of the party.

16. Mr. Berrien.

17. To defer anything to the Greek Kalends was to defer it forever. There were no Kalends in the Greek months.

18. In this omission Webster speaks of his record in opposition to slavery extension and of his reluctance to consent to such extension by the annexation of Texas. He quotes from his speech at Niblo's, 1837, and from his speech at a Whig Convention in Springfield, Massachusetts, September, 1847. In the latter speech he claimed that the Wilmot Proviso was a Whig principle and that he had stood for it since 1837. "We are to use the first and the last and every occasion which offers to oppose the extension of slave power." These were his words. See also, the Historical Note, p. 389.

19. The Three Million Loan Bill proposed to appropriate $3,000,000 for the purpose of discharging any extraordinary expenses which might be incurred in bringing the war with Mexico to a conclusion. Webster's speech on this bill was made March 1, 1847.—See Webster's *Works*, vol. v., pp. 253–261.

20. This was to carve new States out of Texas, by her consent and when her population justified it, and admit them as slave States.

21. A Convention in New Mexico in 1859 adopted a Constitution in preparation for Statehood. This constitution provided for the admission of slavery.

22. To what extent does this notable utterance represent true statesmanship?

23. In the omission Webster compares his attitude toward the Wilmot Proviso on a New Mexican bill with that of Polk toward the same proviso on the Oregon bill. Polk was opposed to the proviso on the Oregon bill, but he considered it senseless, and useless to its promoters, and he signed the bill for the sake of a territorial government for Oregon. As Polk would forego his opposition to the proviso, so Webster would forego his advocacy of it when its presence or its absence would affect nothing.

24. Webster remarks that all the territory acquired from Mexico has a fixed and settled condition, that of Texas by plighted public faith, that of California and New Mexico by a law higher than human enactments.

25. This was in the case of Prigg *vs.* Pennsylvania. See Sumner's Speech, p. 317, and the note thereto, Note 9, p. 428.

26. Mr. Mason, of Virginia, the author of the Fugitive Slave Law of 1850.

27. Did the persons of whom Webster here speaks consider that their moral and constitutional obligations were in conflict? Or did they interpret the Constitution to justify their course? See Speech of Seward on "the higher law," and of Sumner on the Fugitive Slave Law.

28. Webster refers here to the remarks of Mr. Hillard, in the Massachusetts Legislature, to the effect that it was unbecoming for one set of public servants to lecture and instruct another set of public servants. Webster speaks briefly upon the binding force of State legislative instructions, holding that he was not in the Senate merely as the representative of Massachusetts.

29. For some account of these discussions see Wilson's *Rise and Fall of the Slave Power*, vol. i., pp. 189–207.

30. Is this true? If so were the Abolitionists responsible for it?

31. Webster refers to the violence of the press North and South which he deprecates, but for which he can see no redress.

32. Mr. Solomon W. Downs, the senior Senator from Louisiana, in a long speech delivered on the 18th and 19th of February, 1850, on the Compromise Resolutions, spoke of the condition of the 3,000,000 slaves of the South, claiming that they were the "gayest, happiest, the most contented, and the best fed people in the world. They are not only immeasurably better off than they would be in Africa, where their ancestors came from, but take the whole three millions and compare them with a like number of laboring people in Europe, or even in our own Northern States, and they would not only stand a comparison, but would prove themselves superior, so far as the comforts and enjoyments of life are

concerned."—(Appendix to *Congressional Globe*, 1st Sess., 31st Congress, part i., p. 175.) Rhodes says no statement was more completely false than such as this. See *History of the United States*, vol. i., p. 305; also Olmsted's *Cotton Kingdom*, vol. ii., p. 238.

33. It is interesting to note in connection with this remark the concentration of wealth since Webster's day. What proportion of wealth is now (1896) "in the hands of the laborers of the North"?

34. In 1835 South Carolina passed an act providing that any colored person found on board of any vessel entering her ports should be seized and jailed till the vessel should sail, then to be restored to the vessel on payment of costs. Massachusetts decided to test this act, basing the test on the clause of the Constitution which says that "citizens of each State shall have the privileges and immunities of the citizens of the several States." South Carolina's act was clearly unconstitutional, since colored men were citizens of some of the States. Governor Briggs appointed Samuel Hoar to go to Charleston to institute proceedings. For the result of this mission see Greeley's *American Conflict*, vol. i., pp. 178–185; and Wilson's *Rise and Fall of the Slave Power*, vol. i., pp. 576–586.

35. The omission contains remarks on two subjects. As to Texas, he would be glad to see her paid fairly for any cession she may choose to make north of 36° 30', to be erected into a free State. As to emancipation and transportation of free colored people he would be glad to see almost any expense incurred to accomplish the object. Webster indorsed King's proposition made in 1820.—See note, p. 349. Webster would heartily co-operate with Southern men in accomplishing the amelioration of the Southern blacks.

36. Probably no speech in American history has ever excited so much attention and criticism as this speech of Webster's. It caused Webster to be denounced and repudiated by the anti-slavery sentiment of the North. Before 1850 he had spoken repeatedly against slavery extension; now he seemed willing that the new territory should be organized without restriction.

To the anti-slavery reformer he appeared to magnify the grievances of the South against the North, while almost overlooking those of the North against the South. Mr. Blaine says: "Instead of arraigning the propagandists of slavery, he arraigned its opponents. Instead of indicting the disunionists of the South, he poured out his wrath on the Abolitionists of the North." *

Curtis, Webster's biographer, concedes that the speech was received "by the great majority of the North with disfavor and disapprobation."

Joshua R. Giddings said that that part of Webster's criticism against the South relating to the treatment of colored seamen "was not in the speech as spoken, but was inserted by Webster in the printed copy for circulation at the North. By this speech a blow was struck at freedom and the constitutional rights of the free States, which no Southern arm could have given."

In the Massachusetts Legislature Webster was called a "recreant son of Massachusetts," who misrepresented her in the Senate. Henry Wilson declared that Webster in his speech had simply, but hardly, stated the Northern and national side, while he had earnestly advocated the Southern and sectional side; that his speech was "Southern altogether, in its tone, argument, aim, and end." Horace Mann wrote: "Webster is a fallen star. There is a very strong opinion here at Washing-

* Blaine's *Twenty Years of Congress*, vol. i., p. 93.

ton that Mr. Webster has played false to the North." He was accused on all sides of having made a bid for the presidency. Theodore Parker compared the speech to the treason of Benedict Arnold ; he called Webster " A bankrupt politician gaming for the presidency," and he asserted that not one hundred respectable men in New England endorsed the speech. The religious press almost uniformaly disapproved. Emerson, the Sage of Concord, wrote : " Mr. Webster is only following the laws of his blood and constitution. He is a man who lives by his Memory ; a man of the past, not a man of faith and hope. All the drops of his blood have eyes that look downward, and his finely developed understanding only works truly and with all its force, when it stands for animal good, that is, for property. He looks at the Union as an estate, a large farm, and is excellent in the completion of his defence of it so far. What he finds already written he will defend. Lucky that so much got written before he came, for he has no faith in the power of self-government."

Whittier, the poet of Freedom, indited with indignant fervor his poem of " Ichabod," which he applied to Webster :

" So fallen ! So lost ! the light withdrawn
Which once he wore.
The glory from his gray hairs gone
Forevermore !

. . . . . .

" Let not the land once proud of him
Insult him now,
Nor brand with deeper shame his dim
Dishonored brow.

" But let its humbler sons instead
From sea to lake
A long lament, as for the dead,
In sadness make.

"Of all we loved and honored naught
Save power remains;
A fallen angel's pride of thought
Still strong in chains.

"All else is gone; from those great eyes
The soul has fled;
When faith is lost, when honor dies,
The man is dead.

"Then pay the reverence of old days
To his dead fame;
Walk backward with averted gaze
And hide his shame."

These extracts indicate the violent nature of the controversy over Mr. Webster's course. Certainly no other speech of the great orator ever produced so great a sensation as did this. The reply to Hayne and the reply to Calhoun, as Mr. Rhodes says, have a more permanent value and a more lasting influence; the 7th of March Speech dealt entirely with slavery, and when slavery with its problems and contentions had passed away the speech lost all but its historical interest.* But from the historical point of view, this is the most interesting of Webster's speeches.

It is pertinent to consider here the altered verdict on Webster which dates from the 7th of March Speech, as represented in these hostile criticisms. Some consider that the change of sentiment towards Webster was but temporary, that the judgment of posterity is more fair and more favorable. Many think otherwise and still approve the condemnation then visited upon Webster. Hon. Henry Cabot Lodge, Webster's latest biographer, says: "Mr. Curtis correctly says that a

* *History of the United States since 1850*, vol. i., p. 149.

great majority of Mr. Webster's constituents, if not of the whole North, disapproved of this speech. He might have added that that majority has steadily increased. The popular verdict has been given against the 7th of March Speech, and that verdict has passed into history. Nothing can now be said or written which will alter the fact that the people of this country who maintained and saved the Union have passed judgment upon Mr. Webster and condemned what he said on the 7th of March, 1850, as wrong in principle and mistaken in policy. This opinion is not universal,—no opinion is,—but it is held by the great body of mankind who know or care anything about the subject, and it cannot be changed or substantially modified, because subsequent events have fixed its place and worth irrevocably." *

In examining the ground for this judgment, Mr. Lodge emphasizes the inconsistency in the tone of Webster's speech and his views on the general subject of slavery as compared with his former unmistakable position, an inconsistency especially manifest in his utterances in regard to the Fugitive Slave Law. "There can be no doubt," says Lodge, "that under the Constitution the South had a perfect right to claim the extradition of fugitive slaves. The legal argument in support of that right was excellent, but the Northern people could not feel that it was necessary for Daniel Webster to make it. The Fugitive Slave Law was in absolute conflict with the awakened conscience and moral sentiment of the North. . . . The consciences of men cannot be coerced; and when Mr. Webster undertook to do it he dashed himself against the rocks. People did not stop to distinguish between a legal argument and a defence of the merits of catching runaway slaves. To refer to the original law of 1793 was idle. Public opinion had changed in half a century; and what had seemed reasonable

* Lodge's *Life of Webster*, p. 303.

at the close of the eighteenth century was monstrous in the middle of the nineteenth.

"All this Mr. Webster declined to recognize. He upheld without diminution or modification the constitutional duty of sending escaping slaves back to bondage; and from the legal soundness of this position there is no escape. The trouble was that he had no word to say against the cruelty and barbarity of the system. To insist upon the necessity of submitting to the hard and repulsive duty imposed by the Constitution was one thing. To urge submission without a word of sorrow or regret was another. The North felt, and felt rightly, that while Mr. Webster could not avoid admitting the force of the constitutional provisions about fugitive slaves, and was obliged to bow to their behest, yet to defend them without reservation, to attack those who opposed them, and to urge the rigid enforcement of a Fugitive Slave Law, was not in consonance with his past, his conscience, and his duty to his constituents. The constitutionality of a Fugitive Slave Law may be urged and admitted over and over again, but this could not make the North believe that advocacy of slave-catching was a task suited to Daniel Webster. The simple fact was that he did not treat the general question of slavery as he always had treated it. Instead of denouncing and deploring it, and striking at it whenever the Constitution permitted, he apologised for its existence, and urged the enforcement of its most obnoxious laws. This was not his attitude in 1820; this was not what the people of the North expected of him in 1850."*

Mr. Lodge discusses further the situation in 1850 in regard to the policy of compromise, and he considers that the concessions of Webster and his pro-slavery attitude were not necessary in order to save the Union.†

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* Lodge's *Life of Webster*, pp. 306, 307, 308.

† Lodge's *Life of Webster*, p. 308, *et seq.*

On the other hand, fairness to Webster requires a statement of some considerations more favorable to his fame. Mr. Rhodes, the latest historian of this period says: "It is probable that the matured historical view will be that Webster's position as to the application of the Wilmot Proviso to New Mexico was the statesmanship of the highest order. In 1846, 1847, and 1848, the formal prohibition of slavery in the territory to be acquired, or which was acquired, from Mexico, seemed a vital and practical question. The latitude of the territory in dispute gave reason to suppose that its products would be those of the cotton States, and that it would naturally gravitate towards slave institutions. While many believed that the Mexican law sufficed to preserve freedom in California and New Mexico, it nevertheless was good policy to make extraordinary appropriations for the war only on condition of an express understanding that the territory acquired should be free. But in 1850 the question had changed. California had decided for herself; and the more important half of the controversy was cut off by the action of the people interested. There remained New Mexico. The very fact that California had forbidden slavery was an excellent reason for believing that New Mexico would do likewise. . . . The correspondence between Webster and the delegate to Congress from New Mexico shows that no one conversant with the facts had the slightest notion that slavery had any chance of being established in that Territory." *

The change in the situation in 1850 over that of 1848 does not appear so forcible as Mr. Rhodes attempts to make out. He urges other minor, but not decisive, considerations in favor of Mr. Webster. The most forcible defence of Webster, from the point of view of statesmanship and practical politics,

* Rhodes' *History of the United States*, vol. i., pp. 150–151.

is urged by Mr. Blaine. In the early part of 1861, while the Union seemed dissolving by secession, with a Republican majority in both branches of Congress, Acts organizing the Territories of Colorado, Dakota, and Nevada were passed without containing a word of prohibition on the subject of slavery. From the time the annexation of Texas was first considered, the question of slavery in the Territories was in dispute between political parties. After the repeal of the Missouri Compromise, in 1854, the Republican party was organized on that issue alone, and for seven years its leaders had kept up an exclusive agitation on this one question. "Yet," says Mr. Blaine, "the first time the party had the power, as a distinctively political organization, to enforce the cardinal article of its political creed, it quietly and unanimously abandoned it." Mr. Sumner, Mr. Wade, Mr. Seward, and other radical Free Soilers and Republicans of former days sat still and allowed the bill to pass, without a word of explanation or protest. Why this change of attitude? Were these great men "recreant" to their former principles? The answer is, that they were merely in the position in which Webster found himself in 1850. Mr. Blaine, in speaking of the situation and statesmen of 1861, says:

"If, indeed, it be fairly and frankly admitted, as was the fact, that receding from the anti-slavery position was part of the conciliatory policy of the hour, and that the Republicans did it the more readily because they had full faith that slavery never could secure a foothold in any of the Territories named, it must be likewise admitted that the Republican party took precisely the same ground held by Mr. Webster in 1850, and acted from precisely the same motives that inspired the 7th of March Speech. Mr. Webster maintained for New Mexico only what Mr. Sumner now admitted for Colorado and Nevada. Mr. Webster acted from the same considerations that now influenced and controlled the judgment of Mr.

Seward. As a matter of historic justice, the Republicans who waived the anti-slavery restriction should at least have offered and recorded their apology for any animadversions they had made upon the course of Mr. Webster ten years before. Every prominent Republican senator who agreed in 1861 to abandon the principle of the Wilmot Proviso in organizing the Territories of Colorado and Nevada, had, in 1850, heaped reproaches upon Mr. Webster for not insisting upon the same principle for the same territory. Between the words of Mr. Seward and Mr. Sumner in the one crisis and their votes in the other, there is a discrepancy for which it would have been well to leave on record an adequate explanation. The danger to the Union, in which they found a good reason for receding from the anti-slavery restriction on the Territories, had been cruelly denied to Mr. Webster as a justifying motive. They found in him only a guilty recreancy to sacred principle for the same act which in themselves was inspired by devotion to the Union."*

Mr. Galusha A. Grow, who was, in 1861, the Chairman of the House Committee on Territories, criticises this passage of Blaine, saying that the situations in 1850 and 1861 were not at all similar. His remark merely emphasizes the fact that a statesman's course must be determined chiefly by his circumstances. The interesting question is, whether the situation in 1850 demanded of a Northern statesman a positive prohibition of slavery in the territories, which was not demanded by the situation in 1861. There is still, and perhaps always will be a difference of opinion on that question.† It should be understood in saying that a statesman should be guided by his circumstances, that there are certain inviolable principles of

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* Blaine's *Twenty Years of Congress*, vol. i., p. 271.

† See Addendum, *Twenty Years of Congress*, vol. ii.

morality and justice which are not to be compromised or given away.

Webster has been compared to Burke. In another speech on the Compromise Measures, July 17, 1850, he took as his motto a passage from Burke's speech on Conciliation with America: "Alas! alas! When will this speculating against fact and reason end? What will quiet these panic fears which we entertain of the hostile effect of a conciliatory conduct? Is all authority, of course, lost when it is not pushed to the extreme?" Webster did not consider it necessary to assert his former principles when the assertion would result in nothing but irritation. He was not afraid of the charge of inconsistency, for he wisely regarded consistency as only the "bugbear of small minds." "Whenever there is a particular good to be done, wherever there is a foot of land to be stayed back from becoming slave territory, I am ready to assert the principle of the exclusion of slavery. I am pledged to it from the year 1837. I have been pledged to it again and again; and I will redeem those pledges. But I will not do a thing unnecessary, that wounds the feelings of others, or that does disgrace to my own understanding." What could be more like Burke?

It has been said of Webster that, like Burke, "he changed his front but he never changed his ground"; and, like Burke, he believed that prudence is the first of political virtues, the standard of all political action. We may conclude that Webster was wrong in his denunciations of the Abolitionists; that it is to be regretted that he failed to take higher ground upon the great "irrepressible conflict" of that day. It would have been better for his fame if he had stood with Seward and Chase, who represented the higher and truer statesmanship then needed to meet the aggressions of slavery. But, after all, we may well believe that it was not because Webster hated slavery less, but that he loved the Union more, that he made

this speech. He simply believed that slavery could not be further opposed and the Union preserved; that the anti-slavery crusade could not continue without endangering the Union. He represented the type of statesman of 1787 and again in 1863—say, of Madison and Lincoln—,whose paramount object was in the first instance to form, in the second instance to preserve, the Union. On the 7th of March Webster represented the resultant of forces, the conflict of motives. He hated slavery, he loved the Union; his love for the Union was the stronger, and for the sake of that affection he was willing to call a halt upon his opposition to slavery.

Webster himself considered this speech the most important effort of his life. His eulogists have said that it postponed the war for a decade, until the forces of the Union were strong enough for its preservation. If hostile critics may truthfully say that this Speech added nothing to a life of otherwise great achievement, it may with equal truth be said that it certainly was not the occasion of any serious or permanent loss to Webster's fame. With it or without it the life and speeches of Daniel Webster will be read by all subsequent generations of his countrymen with admiration for his marvellous talents, and with gratitude for his lasting services to the Republic.*

For further study of the situation in 1850, and of Webster's course, see previous Introduction, p. v. and Historical Note, p. 388. Also note the following special references:

Schouler's *United States History*, vol. v., pp. 166 *et seq.*

Lodge's *Life of Webster*, pp. 287–332.

Curtis' *Life of Webster*, vol. ii., pp., 381–420.

Blaine's *Twenty Years of Congress*, vol. i., pp. 90 *et seq.*, and p. 271, and the Addendum.

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* In the final note I have used a few passages from my supplementary note to the 7th of March Speech in *Select Orations of Burke and Webster*, published by Heath & Co.

Rhodes' *History of the United States Since 1850*, vol. i., pp. 137–160.

Woodburn and Hodgin's Select Orations of Burke and Webster (*Studies in American Commonwealth*), pp. 509–517; pp. 574–582.

Teft's *Life of Webster*, pp. 403–420.

Von Holst's *Constitutional History of the United States*, 1846–1850, pp. 497–507.

Greeley's *American Conflict*, vol. i., pp. 198–208.

Wilson's *Rise and Fall of the Slave Power*, vol. ii.

HENRY CLAY.

1. For sketch of Clay, see vol. i., p. 376.

2. This speech of Clay's was made in the United States Senate July 22, 1850. This was nearly six months after he had first introduced his compromise resolutions (January 29th) and two and a half months after the Committee of Thirteen had made its report (May 8th). Mr. Clay, as Chairman of this Committee, had charge of the bills which it reported, and he was in constant service answering objections and urging arguments. It seemed probable for a while that the opposition to the compromise scheme would be strong enough to defeat it. This opposition came from the Free Soilers of the North and the extreme slavery advocates of the South. During the progress of the debate and before this speech of Clay's, two events occurred which had an important bearing upon the outcome. 1. The Nashville Convention of June 2–4, 1850. This had been called at a meeting in Jackson, Mississippi, in May, 1849, for the purpose of solidifying Southern influence in opposition to Northern aggression. The Southern dis-

unionists proposed to make this Convention the occasion of showing the opposition of the South to the Compromise. From this point of view the Convention was not a success, and its influence tended to discourage Southern opposition to Clay's proposals. 2. The second event was the death of President Taylor, July 9, 1850. Seward was influential in the councils of Taylor, and the influence of the administration had been forcibly exerted against certain features of the Compromise, notably on the questions touching the Territories and the Texan boundary.

During the long debate Mr. Clay had spoken many times. On February 14th he spoke at length in favor of the independent admission of California. On April 8th, he spoke in favor of the appointment of the special Committee of Thirteen. On May 8th, Mr. Clay made the report for this Committee, and on May 13th, he spoke at length in favor of its proposals. Two days later, May 15th, he spoke again in reply to Jefferson Davis, of Mississippi, on the question: "Does the Constitution carry slavery into the Territories?" Davis had proposed an amendment to the territorial bills for Utah and New Mexico, so as to recognize the Calhoun doctrine, which Clay opposed. Clay spoke again on May 21st, answering objections to the Committee's report. On June 7th, 8th, and 13th, he speaks on the title and boundary of Texas, holding that the title was good enough to justify payment for the claim. Again on July 15th and 19th, he spoke on the admission of California, now incorporated in the "Omnibus Bill." Clay held at this time that this admission might well be made dependent on the other proposals. On July 22d, he makes his last speech on these subjects, speaking on the pending "Omnibus Bill." See Historical Note to Calhoun, p. 380. "Ever since January 28th he had been on the floor almost day after day, sometimes so ill that he could hardly drag his tottering limbs to the Senate chamber. So he toiled on, an-

swering objections and arguing and pleading, and expostulating, and appealing and beseeching, with anxious solicitude, for the Union, and for peace and harmony among all its people. He had thrown aside all sectional spirit. 'Sir,' he exclaimed once, 'I have heard something said about allegiance to the South. I know no South, no North, no East, no West, to which I owe any allegiance.' Whatever may be said of the wisdom of his policy, his motives had never been more patriotic and unselfish. He was no longer a candidate for the Presidency. There was no longer any vulgar ambition disturbing him. 'I am here,' he said, 'expecting soon to go hence, and owing no responsibility but to my own conscience and to God." *

After the "Omnibus Bill" had been so disfigured by amendments that Clay thought it was defeated, he retired from the leadership, leaving the Senate halls for rest and recuperation at Newport. It was in Clay's absence that the measures which he favored went through, one by one.

See Schouler, Von Holst, Rhodes, Greeley, Wilson, and especially Schurz' *Life of Clay*, and Clay's *Works*, edited by Colton.

3. This refers to the Nashville Convention of June, 1850. See Historical Note above. See also Greeley's *Conflict*, Rhodes, and Schouler.

4. Clay here expresses his regret at the establishment of a sectional paper in Washington, and at other influences tending to excite sectional feeling; and he denies that Kentucky was opposed to the Compromises, as had been charged.

5. In this omission of considerable length Clay describes the appointment and work of the Committee of Thirteen,

* Schurz' *Life of Clay*, vol. ii., pp. 355, 356.

making a plea for the special measures recommended by its report. See Historical Note, p. 408. He speaks, also, of President Taylor's plan, eulogizing the departed President but urging the necessity of a territorial government for New Mexico and Utah, which Taylor would have deferred.

6. Clay says there is no more coercion in the concession which he urges than in the numerous treaties which the United States have made in settling the Maine boundary, or in coming down from 54° 40′ to 49° in Oregon. These treaties represent mutual and reciprocal concessions, as this bill does, which contains a variety of provisions, some of which are approved and some disapproved.

7. He defends the "Omnibus Bill" against the charge of incongruity, saying that it was not that the bill had too much, but that it had too little, it was not the variety but the lack of matter in the bill which had excited the opposition. If the Wilmot Proviso and two or three more States from Texas had been in the bill, certain objectors North and South would not have spoken. He charges the opposition to the bill with greater incongruity, and resents the insinuation that Senators of opposite parties had been seen in consultation over the bill. Men like Cass and Webster were in harmony as passengers in the "omnibus," and among these passengers were no disunionists and Free Soilers. He urges that the Constitution itself was a compromise, "a great, a memorable, magnificent compromise," and he urges upon the Northern Senators the benefits to their section involved in certain measures proposed. He repeats Webster's argument as to the improbability of Slavery's being established in the disputed Territories. He resents a remark attributed to Senator Davis, of Massachusetts, which Davis disclaimed, that New Mexico would be advantageous for the breeding of slaves. Clay held that the whole charge of slave-breeding was false and ground-

less. He then makes a summary of the advantages to the two sections to be derived from the passage of the Committee's proposals ; and discusses the provisions of the Constitution as to slavery ; urges upon the Southern men that their views of their constitutional rights in the Territories may be erroneous ; discusses the probable consequences of the defeat of these measures, urging that a civil war would break out between Texas and New Mexico, and that if the United States repelled the attack of Texas on New Mexican territory, other slave States would come to the assistance of Texas, and the civil conflict might spread to the extent of involving the sections in an awful war. One of the most salutary effects of the compromise measures, according to Clay, would be the cessation of the anti-slavery agitation. He shows to his own satisfaction that there would be nothing left for the Abolitionists to agitate about. He then appeals to our history to show that after the storm a calm is sure to follow, using the struggle over the Missouri Compromise as an illustration.

8. He illustrates the same line of thought by the Tariff Compromise of 1833.

9. Was this an utterance of a "low ambition"? See Phillips' Speech, p. 233.

10. Clay here makes a personal appeal to some of his fellow Senators, especially to Senator Mason, of Virginia, whose ancestry he eulogizes.

11. "Like an electric shock the word thrilled the audience, and volleys of applause broke forth from the crowded galleries."—Schurz' *Life of Clay*, vol. ii., p. 357.

12. Can it be doubted, in the light of this utterance where Clay would have stood in 1861? The words of this speech were quoted at that time with effect upon many men who had for years followed Clay's political fortunes.

WENDELL PHILLIPS.

1. For sketch of Phillips, see p. 366.

2. This speech was delivered before the Massachusetts Anti-Slavery Society, Boston, Mass., January 27, 1853. The text for the speech is found in the resolution with which it is introduced and the occasion for it is suggested by the speech itself. The Abolitionists had been derided and abused by respectable and influential men ; they had been denounced as a hindrance to the cause which they professed to serve. It was yet a matter of reproach and embarrassment among the "influential" classes to be known as an Abolitionist. Phillips thought the time had come to set forth the historic apology, or defence, for the cause for which he and others had been contending for twenty years. This is, perhaps, the ablest and most exhaustive of Mr. Phillips' speeches, and the one of most permanent value. Besides being a fine specimen of Phillips' eloquence on his favorite theme, as a summary of the course and contention of the Abolitionists and of their contribution to the anti-slavery cause the speech is of historical importance and significance.

3. Phillips here engages in general introductory remarks, in which he asserts that the course of the Abolitionists had been wise, that their efforts had been tested by time and approved by success. In these statements he lays down the propositions which it is the purpose of the speech to prove.

4. "Ion's" article in the London *Leader* was copied, in part, into the *Christian Register* of Boston, a Unitarian journal. The *Register* did not copy the part which gave a tribute to Garrison's motives and character, but only the part which questioned his charity and sagacity and criticised his methods. This gives Phillips an opportunity publicly to

pillory the *Register* as an illustration of the rottenness of our politics and religion.

5. "Ion" then goes on to say:

"This is a defence which has been generally accepted on this side of the Atlantic, and many are the Abolitionists among us whom it has encouraged in honesty and impotence, and whom it has converted into conscientious hinderances. . . .

"We would have Mr. Garrison to say, 'I will be as harsh as *progress*, as uncompromising as *success*.' If a man speaks for his own gratification, he may be as 'harsh' as he pleases; but if he speaks for the down-trodden and oppressed, he must be content to put a curb upon the tongue of holiest passion, and speak only as harshly as is compatible with the amelioration of the evil he proposes to redress. Let the question be again repeated: Do you seek for the slave vengeance or redress? If you seek retaliation, go on denouncing. But distant Europe honors William Lloyd Garrison because it credits him with seeking for the slave simply redress. We say, therefore, that 'uncompromising' policy is not to be measured by absolute justice, but by practical amelioration of the slaves' condition. Amelioration as fast as you can get it, absolute justice as soon as you can reach it."

"Ion" quotes the sentiment of Confucius, that he would choose for a leader "a man who would maintain a steady vigilance in the direction of affairs, who was capable of forming plans, and of executing them," and says:

"The philosopher was right in placing wisdom and executive capacity above courage; for, down to this day, our popular movements are led by heroes who *fear* nothing, and who *win* nothing. . . .

"There is no question raised in these articles as to the work to be done, but only as to the mode of really doing it. The platform resounds with announcements of principle, which is

but *asserting* the right, while nothing but contempt is showered on policy, which is the *realization* of right. The air is filled with all high cries and spirited denunciations; indignation is at a premium; and this is called advocacy. . . . But to calculate, to make sure of your aim, is to be decried as one who is too cold to feel, too genteel to strike."

Further on, "Ion" observes:

"If an artillery officer throws shell after shell which never reach the enemy, he is replaced by some one with a better eye and a surer aim. But in the artillery battle of opinion, *to mean* to hit is quite sufficient; and if you have a certain grand indifference as to whether you hit or not, you may count on public applause. . . .

"A man need be no less militant, as the soldier of facts, than as the agent of swords. But the arena of argument needs discipline, no less than that of arms. It is this which the anti-slavery party seem to me not only to overlook, but to despise. They do not put their valor to drill. Neither on the field nor the platform has courage any inherent capacity of taking care of itself."

"Ion" then proceeds to make a quotation from Mr. Emerson, as follows: "Let us withhold every *reproachful*, and, if we can, every *indignant* remark. In this cause, we must renounce our temper, and the risings of pride. If there be any man who thinks the ruin of a race of men a small matter compared with the last decorations and completions of his own comfort, who would not so much as part with his ice-cream to save them from rapine and manacles,—I think I must not hesitate to satisfy *that* man also that his cream and vanilla are safer and cheaper by placing the negro nation on a fair footing than by robbing them. If the Virginian piques himself on the picturesque luxury of his vassalage, on the heavy Ethiopian manners of his house-servants, their silent obedience, their hue of bronze, their turbaned

heads, and would not exchange them for a more intelligent but precarious hired services of whites, I shall not refuse to show *him* that, when their free papers are made out, it will still be their interest to remain on his estates; and that the oldest planters of Jamaica are convinced that it is cheaper to pay wages than to own slaves."

The critic takes exception to Mr. Garrison's approval of the denunciatory language in which Daniel O'Connell rebuked the giant sin of America, and concludes his article with this sentence:

"When William Lloyd Garrison praises the great Celtic monarch of invective for this dire outpouring, he acts the part of the boy who fancies that the terror is in the war-whoop of the savage, unmindful of the quieter muskets of the civilized infantry, whose unostentatious execution blows whoop and tomahawk to the Devil."

Speaking of Emerson, Phillips does not regard him as endorsing the criticisms of the Abolitionists, and he gives a generous recognition of Emerson's services to the anti-slavery cause.

6. The figure is from Isaiah lvi: 10. "His watchmen are blind; they are all ignorant. They are all dumb dogs, they cannot bark; sleeping, lying down, loving to slumber."

7. Sympathizers with "Ion" pretend that the anti-slavery movement has been mere fanaticism. This they assert in order to justify their indifference or hostility. Their change to some degree of favor, they explain, is because the movement is now fostered by men of thoughtful minds and fair dispositions. Phillips claimed that the converts, neither by their charity, sagacity, nor culture, had struck out any new method of reaching the public mind, originated a new argument or discovered a new fact.

8. These passages on Webster and Clay offer a good subject for historical criticism. What were the relative moral merits of the two Statesmen and their unsparing critic? See the passage from Clay, p. 210.

9. Haynau was an Austrian general in the war of the Hungarian revolution of 1848–9, who suppressed the insurgents with a cruel and ruthless hand. Hungary lost all independence and all constitutional freedom and sank for a short time into a vassal province of Austria. It was at this time that Kossuth fled. See Müller's *Political History of Recent Times*, pp. 243–246.

10. Phillips here arraigns the "leading men" for counting on the prejudices of the majority, expecting to cajole the Present. "Their only fear is the judgment of the Future. Our only hold upon them is the thought of that bar of posterity, before which we are all to stand. Thank God! there is the army of honest men to come. Before that jury we summon you."

11. Phillips here speaks with sarcasm of the strange change which death produces in the way a man is talked about, evidently having Webster and Clay still in mind. "Their friends rake up every word they ever contrived to whisper in a corner for liberty, and parade it before the world. When their friends bury them, they feel what bitter mockery, fifty years hence, any epitaph will be, if it cannot record of one living in this era some service rendered to the slaves."

12. Was this sufficient defence for his denunciation of Webster and Clay?

13. For account of Lundy's work, see Wilson's *Rise and Fall of the Slave Power*, vol. i.

14. Adams while a member of the United States Senate had supported the Non-Importation Act and the Embargo, in 1807–1808, and had broken with the Federalist party in support of Jefferson's administration. The Massachusetts Legislature admistered a rebuke by electing his successor a year before Adams' time expired, and passed resolutions strongly condemning the Embargo. This was practically asking Adams to resign, which he did. Morse says many descendants of the old Federalists in Massachusetts "still cherish the ancestral prejudice." See Morse's *Life of J. Q. Adams*, pp. 57, 58.

15. See Note 9 on Sumner's speech, p. 428.

16. The omission contains a few sentences in further tribute to Rantoul.

17. This refers to Sumner's speech on the Repeal of the Fugitive Slave Law. See p. 268.

18. An omitted paragraph gives recognition of the services to the anti-slavery cause of Joshua R. Giddings.

19. The omission includes a few lines more on the influence of the church organizations. The individual member who was independent of them was rare. "The Methodist priesthood brings the Catholic very vividly to mind."

20. In two paragraphs omitted here Phillips claims that J. Q. Adams and Christian bodies in Great Britain endorsed this policy toward the Church. He mentions, also, the services of the Abolitionists in pressing upon the attention of the country the facts and suggestions coming from British Emancipation in the West Indies.

21. He continues to discuss at some length the Abolitionists' conduct toward the Church, attempting their justification. He criticises the attitude of Lyman Beecher, and quotes Mr. Pills-

bury, an Abolitionist, who said that the theatres would receive the gospel of anti-slavery truth earlier than the churches; considers the influence of *Uncle Tom's Cabin* in the story and on the stage; and quotes at length from Dr. Channing's expressive appreciation of the services of the Abolitionists. See Phillips' *Speeches*, vol. i., pp. 126–134.

22. Compare with Burke's remark that "prudence is the highest of political virtues."

23. He appeals to his audience to stand by Garrison, "to do nothing to weaken his influence"; and he asserts that for practical purposes Abolitionists and other anti-slavery men are at one.

24. This refers to the speech of Sumner in Faneuil Hall, which Phillips is comparing in spirit with the one made in the Senate. See Summer's *Works*, vol. iii. The omission here contains a brief criticism of Sumner's Fugitive Slave Speech, in that it contained "no protest against the surrender itself." "It was under no such uncertain trumpet that the anti-slavery host was originally marshalled."

25. Phillips here engages in criticism of Mann, Sumner, Giddings, and the Free Soilers for their inconsistency, as he saw it, of professing loyalty to the "higher law" while swearing to support the Constitution which sustains slavery "where it is." He quotes the Free Soil position, as voiced by Sumner and Giddings, to the effect that it would be sufficient if the National Government would withdraw itself from all participation in support of slavery. This ultimatum would not satisfy Phillips. If there was a conflict between the "higher law" and the Constitution Phillips insisted upon the repudiation of the Constitution.

26. Consider the effect of this position upon the South.

27. Was this the feeling of the South in 1861? Was there reason for their feeling so?

28. He continues to combat the doctrine of Giddings; refers to J. Q. Adams' speech against Giddings' view, ten years before, in reply to Ingersoll. "Whoever, therefore, lays the flattering unction to his soul, that, while slavery exists anywhere in the United States, our legislators will sit down like a band of brothers—unless they are all slave-holding brothers—is doomed to find himself wofully mistaken." He held that it was "impossible for free States and slave States to unite under any form of Constitution, no matter how clean the parchment may be, without the compact resulting in new strength to the slave system. It is the unimpaired strength of Massachusetts and New York and the youthful vigor of Ohio that even now enables bankrupt Carolina to hold up the institution." Phillips was, therefore, opposed to a union with slave-holders; and he held that the common government of the States must be used in behalf of the slaves.

29. He quotes Milton, indicating how their Northern statesmen shrink to pygmean forms when they go to Washington. He extols and criticises Sumner. "It is not his honor nor mine that is at issue; nor his feeling nor mine that is to be consulted. . . . Truth, success, victory, triumph over the obstacles that beset us,—this is all either of us wants."

30. He indulges in another brief fling at Webster.

31. Phillips cites an example to show that Americans travelling abroad are beset by inquiries about the progress of emancipation. There was no rest from the agitation.

32. He here urges as a proof of the statesmanship and sagacity of the Abolitionists, that they "had taken the country by the

four corners, and shaken it until you can hear nothing but slavery."

33. This suggests an interesting question for argumentation: Was Garrison a statesman?

34. Did the annexation of Texas and the Fugitive Slave Law lead the slavery cause to ruin?

CHARLES SUMNER.

1. Charles Sumner was born in Boston, Massachusetts, January 6, 1811. He entered Harvard in 1826 and graduated in 1830. He devoted himself for another year to reading and study. His first interest in public affairs was excited by the Anti-Masonic movement, which he held to be a "great and good cause." In 1831 he entered the Harvard Law School, where he became a student of Judge Joseph Story. Story became very much attached to Sumner and was his friend throughout life. At this time Sumner was six feet two inches high and weighed 120 pounds. He was not personally attractive, but his intellectual industry and his memory were something extraordinary. Sumner became interested very early in the anti-slavery movement, was a subscriber to the *Liberator* in its early years, and was a friend of Phillips, Garrison, and Channing. He spent the years from 1837 to 1840 abroad, studying diligently and observing carefully, in London, Paris, Rome, Berlin, and other European centres. In 1841, Sumner upheld the right of Great Britain to stop any suspected slaver to ascertain whether she had the right to carry the American flag, and he condemned Webster's correspondence on the "*Creole* Case." During this time, and up to 1848, Sumner was a Whig; John Quincy Adams was

the statesman whom he most admired. Though much interested in the slavery agitation, he had not much interest in other questions of national politics. On July 4, 1845, he delivered a notable oration before the civil authorities of Boston on "The True Grandeur of Nations"—a plea for peace and a denunciation of war. His first anti-slavery speech was made November 4, 1845, against the admission of Texas. Sumner was not a Garrisonian Abolitionist, but he held, as we see from the speech in this volume, that the Constitution was an instrument of national liberty and must be so construed as to make slavery sectional and freedom national.

In September, 1846, at the Whig State Convention, Sumner spoke on "The Anti-Slavery Duties of the Whig Party." He sent a copy of this speech to Webster and tried to induce that statesman to become the leader of the Whigs as an Anti-Slavery party which Webster politely declined to do. Sumner opposed the Mexican War, and in a public letter to Robert C. Winthrop, then a representative in Congress from Boston, he severely censured that gentleman for his vote in support of the war. In September, 1847, Sumner made his last Whig speech, in support of a resolution at the Whig State Convention, that Massachusetts Whigs should support only an anti-slavery man for the presidency. The resolution was lost, and, on the nomination of General Taylor, Sumner, John A. Andrew, E. Rockwood Hoar, Charles Francis Adams, and others withdrew from the Whig party and formed the Free Soil party. "On the 5th of November, 1850, his speech after the passage of the Fugitive Slave Law, was like a war-cry for the Free Soil party and was said to have made him Senator."* He was elected senator by a combination of Democrats and Free Soilers, against Robert C. Winthrop, after a long contest in the Legislature. He refused to modify his public utterances in order

* Appleton's *Cyclopædia of American Biography.*

to get votes, and he went to the Senate as uncompromising an opponent of slavery as Calhoun was its uncompromising advocate. The speech of our text was his first notable effort in the Senate and it secured for Sumner a front rank among the national anti-slavery leaders. From this time forward to the end of the conflict Sumner was recognized as the "most unsparing, the most feared, and the most hated opponent of slavery in Congress. After the brutal assault upon him by Brooks, May 20, 1856, and his re-election to the Senate January 13, 1857, Sumner was absent four years from the Senate Chamber under medical treatment in Europe. He returned to his seat in the Senate in 1860, and in the notable session of 1860–61 he was a strong opponent of any form of compromise. After the withdrawal of the Southern Senators, Sumner became chairman of the Committee on Foreign Affairs. His speech on the 'Trent Affair,' January 9, 1862, is one of his ablest productions and placed the surrender of Mason and Slidell on the most acceptable ground,—on principles always maintained by the United States. Sumner opposed Johnson's reconstruction policy and favored the President's impeachment. In 1870 he opposed President Grant's policy of acquiring Santo Domingo. This led to a rupture with the President and his Republican colleagues in the Senate and the latter displaced him from the chairmanship of the Foreign Affairs Committee. With Senators Trumbull, Schurz, and Fenton, Sumner became an Anti-Grant Republican in 1872 and supported Horace Greeley for the presidency. Thereafter he pursued an independent course in politics until his death, March 11, 1874.

"Among American statesmen Sumner's life especially illustrates the truth he early expressed, that politics is but the application of moral principles to public affairs. Throughout his public career he was the distinctive representative of the moral conviction and political purpose of New England. His ample learning and varied accomplishments were rivalled

among American public men only by those of John Quincy Adams, and during all the fury of political passion in which he lived there was never a whisper or suspicion of his political honesty or his personal integrity. His profound conviction, supreme conscientiousness, indomitable will, affluent resources, and inability to compromise, his legal training, serious temper, and untiring energy, were indispensable in the final stages of the slavery controversy, and he had them all in the highest degree. 'There is no other side,' he said to a friend with fervor, and Cromwell's Ironsides did not ride into the fight more absolutely persuaded that they were doing the will of God than was Charles Sumner in the anti-slavery conflict." *

2. Historical Note :

The Fugitive Slave Act, signed by President Fillmore, September 18, 1850, was a part of the original "Omnibus Bill" and was one of the essential features of the compromise measures. Its chief provisions may be summarized as follows :

1. The powers of the judges under the act of 1793 were given to United States Commissioners. These might be increased by the United States Courts to afford ample facilities for the arrest of fugitives.

2. The Commissioners were to have concurrent jurisdiction with United States judges in giving certificates to claimants and ordering the removal of fugitives.

3. United States Marshalls and Deputies were required to execute writs under the act under penalty of $1000. The Marshall was liable for the full value of the slave in his custody ; the officers were empowered to call the bystanders to help execute writs, and all citizens were required to aid when called.

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* See Appleton's *Cyclopædia of American Biography*. The sketch in this *Cyclopædia* was prepared by George William Curtis.

4. On affidavit of a claimant the Court or Commissioner might give him a certificate of authority to remove his fugitive slave. In no case was the testimony of the fugitive to be admitted, the certificate being conclusive evidence of the claimant's title. This cut off the privilege of *habeas corpus* from the fugitive. No process could be issued by judge, court, or magistrate, to obstruct the owner.

5. The fee of the Commissioner was $10.00 when a certificate of ownership was granted, $5.00 when it was denied.

6. Obstructing arrest, attempting a rescue, harboring a slave, were punishable by imprisonment for six months, a fine of $1000, and civil damages of $1000 to the claimant.

7. On affidavit by a claimant that he feared a rescue, the Marshall was not to surrender the fugitive to the claimant, but was to take him to the State line whence he escaped, employing all necessary force. This made the United States the direct carrier of the slave and responsible for his return.

"The mere statement of the provisions of this law," says Rhodes, "is its condemnation. It was a maxim among Roman lawyers that if a question arose about the civil status of an individual, he was presumed to be free until proved to be a slave. The burden of proof lay on the master, the benefit of the doubt was on the side of the weaker party. Under this act of ours the negro had no chance; the meshes of the law were artfully contrived to aid the master and entrap the slave. It seems amazing that recent legislation in Christian America on this vital point went backward from pagan Rome, and it is almost impossible to portray the spirit of the time in a manner that shall enable us to make allowance for the men who passed this act."—*History of the United States*, vol. i., p. 186.

The enforcement of this law was a difficult matter in the North and notable instances of resistance soon occurred. The rescue of Shadrach and the rendition of Sims in Boston, the "Jerry Rescue" in Syracuse, New York, the Gorsuch Case in

Pennsylvania, all of these,* which had occurred before the time for Sumner's speech, had aroused opposition and excitement. Public meetings had been held and resolutions passed denouncing the act. Emerson voiced the feeling of the Abolitionists when he said: "The act of Congress of September 18, 1850, is a law which every one of you will break on the earliest occasion,—a law which no man can obey, or abet the obeying, without loss of self-respect and forfeiture of the name of a gentleman."

When Sumner's term in the Senate began, March 4, 1851, the Compromise measures had become law, and the leaders and politicians of both parties were seeking to quiet agitation and discussion, and to have the country accept the compromises, the Fugitive Slave Law included, as a "finality." In the long session of the Senate, 1851–1852, the first of Mr. Sumner's service, he waited a long time in vain for an opportunity to speak in opposition to the Fugitive Slave Law. He had spoken vigorously in opposition to this law in Faneuil Hall, Boston, in November, 1850,† a speech which, his opponents said, encouraged violence and resistance to the law. It was the policy of the upholders of slavery and of the compromises to prevent Sumner's addressing the Senate on this subject. The session of Congress was devoid of interest, devoted chiefly to president making. On May 26, 1852, Sumner presented a memorial from the Society of Friends in New England, praying for the repeal of the Fugitive Slave Law. The memorial was laid on the table and Sumner's plea that he should be heard went unheeded. On July 27th he offered a resolution "instructing the Committee on the Judiciary to report a bill for immediate repeal of the Fugitive Slave Act." On the 28th he made an earnest plea for a hearing. He said: "For the

* See Rhodes' *United States History*, vol. i., ch. 3.

† For this speech see Sumner's *Works*, vol. ii., pp. 378–424.

sake of these constituents, for my own sake, I now desire to be heard. Make such disposition of my resolution afterward as to you shall seem best ; visit upon me any degree of criticism, censure, or displeasure ; but do not refuse me a hearing. 'Strike, but hear.'" An interesting debate followed on this request, but the Senate refused to consider the resolution by a vote of 32 to 10. "Want of time," "danger to the Union," "lateness of the session," were the chief reasons urged.

But Sumner was determined to be heard. His opportunity came on August 26th, only four days before the adjournment of Congress. The circumstances introducing the speech are indicated on the opening page of the Speech, p. Sumner's motion was clearly in order and it opened the whole question. "Before speaking, he was approached by several who asked him to give up his purpose, or at least, if he spoke, not to divide the Senate. To all he replied, that, God willing, he should speak, and would press the question to a vote, if he were left alone."*

For several months Whigs and Democrats had been casting the charge of *sectionalism* against any one who ventured to speak publicly against slavery. Sumner had been attempting to turn this party charge against his opponents. He had announced that "freedom, not slavery, is national ; while slavery not freedom, is sectional." This expression was the shibboleth of his party, and it expresses the main subject and purpose of this speech.

3. Sumner here quotes Mississippi and Kentucky decisions to show that slavery exists only by local law.

4. In this omission, of considerable length, Sumner sets forth the principles in the interpretation of the Constitution, by which he contended that the Constitution nowhere sup-

* Edition of Sumner's *Works*, vol. iii., p. 89.

ported slavery ; that it was an anti-slavery document. Sumner's position was that slavery could be successfully opposed, restricted, and finally abolished, on constitutional grounds. The matters which he brought forward, as in favor of freedom, were : 1. The preamble. 2. Contemporaneous declarations, in the Convention of 1787. 3. The Constitution is to be construed as a whole, and "*The grand political acts of the nation are to be construed together*" ; these committed the nation to freedom. 4. "In any question under the Constitution every word must be construed in favor of liberty." 5. "The Constitution acts upon slaves as persons, not as property,"—quoted from Justice McLean, in the case of Groves *et al. vs.* Slaughter (15 Peters, 507, 508).

5. He quotes from Washington in favor of emancipation, and in favor of a society to promote that end.

6. In this omission of several pages Sumner shows that the churches, colleges, and literature of the land joined in the national condemnation of slavery at the time of the formation of the Constitution. The discussions in the State Conventions which adopted the Constitution showed the same sentiment against slavery. He appeals to the tenth amendment to the Constitution as a protection to the people against "all assumptions of the National government in derogation of freedom." No law of the Federal Government extending beyond the power granted by the Constitution could be binding. Sumner held the Fugitive Slave Law to be such. "No power had been delegated to Congress to make a slave or support a system of slavery."

7. In the way of historical criticism the student will be interested in examining these passages from Sumner in connection with opinions from certain historical writers. Was the fugitive slave clause essential to the adoption of the Constitu-

tion? Was it, at the time, looked upon as an important feature of the compromises of that instrument? Blaine says: "If it had not been agreed that fugitives from service should be returned to their owners, the Thirteen States would not have been able in 1787 'to form a more perfect union.'"—*Twenty Years of Congress*, vol. i., p. 1. Rhodes says: "It is unquestionable that this stipulation (Fugitive Slave clause) was necessary for the adoption and acceptance of the Constitution."—*History of United States Since 1850.*

In historical criticism on this subject the student should consult, in addition to the foregoing passages from Sumner,

Curtis' *History of the Constitution*, vol. ii., p. 451.

Benton's *Thirty Years' View*, vol. ii., p. 773.

Stephens' *War Between the States*, vol. i., p. 202.

Professor Alexander Johnston in *The New Princeton Review*, vol. iv., p. 183.

Elliot's *Debates*, vol. v., pp. 487, 492, 550, 553; vol. iv., pp. 176, 286.

The Decision in Prigg *vs.* Pennsylvania, cited in Thayer's *Cases on Constitutional Law*, vol. i., pp. 476–479.

8. For the circumstances leading to the enactment of the first Fugitive Slave Act, of 1793, see Rhodes' *History of the United States*, vol. i., p. 24.

9. In the decision in Prigg *vs.* Pennsylvania the Supreme Court held that the rendition of the fugitive slave was a national function. In 1826 Pennsylvania passed an act to prevent kidnapping, and extended its provisions to fugitive slaves who had taken refuge in that State. The act provided a mode for the rendition of fugitives, and forbade any other mode as a felony. In 1832 Prigg, an agent for a Maryland slave-owner, claimed a negro woman in Pennsylvania as a slave. The claim being denied by the local magistrate, Prigg carried the woman off by force. He was tried and convicted of kid-

napping in York County, Pennsylvania, voluntarily submitting to judgment in order to get the case as a test before the Supreme Court. The Supreme Court of Pennsylvania affirmed the judgment of the lower court, and Prigg appealed the case to the United States Supreme Court. The decision of this Court set forth the following points:

1. Congress has the exclusive right to legislate concerning the rendition of fugitive slaves.

2. In the presence of such legislation by Congress the States have no right to legislate either in aid of or against rendition. Pennsylvania's law was, therefore, void.

3. The right of the owner to recapture his slave was given by the Constitution without restriction, where he could do so without violence or breach of the peace. This led to State restrictions, Personal Liberty Laws, guarding the peace and protecting the citizen against violence.

4. The United States could not compel State Courts to enforce United States laws by State magistrates, as the law of 1793 assumed to do, but must depend upon its own courts and officers. This left the old law ineffective, while indicating that a more efficient law for the recovery of fugitive slaves would be constitutional. See Supreme Court Decision, cited in the text of the speech; Schouler's *United States History*, vol. iv., pp. 428–429; Thayer's *Cases on Constitutional Law*, vol. i.

10. Sumner here quotes from the *Life of Story* to sustain his contention on this point. He also quotes from President Jackson, in his memorable veto, in 1832, of the 2d United States Bank. To Jackson's opinion was opposed a decision of the Supreme Court. Jackson's famous position was that "each public officer who takes an oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others." Sumner's conclusion was

that "the early legislation of Congress and the decisions of the Supreme Court cannot stand in our way."

11. Sumner argues at some length, in the omission, that no *power* had been delegated to Congress to legislate on the subject of fugitive slaves; that the fugitive slave clause of the Constitution was merely an article of compact without an accompanying grant of power. He argued from Article IV., Section 1, of the Constitution: "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial proceedings of every other State." If the article had contained only so much, as some in the Convention favored limiting it, it would have been merely a matter of compact, and Congress would not have had power in the matter. But the article continues: "And the Congress may by general laws prescribe the manner in which such Acts, Records, and Proceedings shall be proved and the effect thereof." No such grant of power accompanied the fugitive slave clause. To sustain Sumner's argument on this point one must accept the compact theory as to this clause of the Constitution, a theory which the Supreme Court decision in Prigg *vs.* Pennsylvania had discarded and denied. It was for this reason, chiefly, that Chief-Justice Taney had dissented from that decision.

12. He quotes Jefferson, in the familiar language of the Resolutions of 1798, defining the General Government as a compact, of certain definite powers, and asserting that whenever it "assumed undelegated powers, its acts are unauthoritative, void and of no force." It is interesting to observe how the anti-slavery Free Soilers and Republicans, in order to save themselves from national legislation in support of slavery, fell back on the compact theory of the government and the reserved rights of the States.

13. In the omission, of considerable length, Sumner quotes precedents and decisions, discusses the nature of common law,

referring to English precedents and endeavors to show that a claim for a fugitive slave was embraced in that class of judicial proceedings.

14. Sumner quotes at length Colonial and Revolutionary declarations against the Stamp Act. That unconstitutional measure "was welcomed in the Colonies by the Tories of that day precisely as the unconstitutional Slave Act is welcomed by large and imperious numbers among us." But patriotism resisted it. He quotes Pitt, who "rejoiced that America had resisted," and urged that the Stamp Act be repealed, absolutely, totally, and immediately." This line of Sumner's argument was to justify the anti-slavery resistance to the Fugitive Slave Law which had been manifested.

15. Sumner here quotes Senator Butler, of South Carolina, and President Washington, to support his position that no law should be insisted on which is altogether out of harmony with the sentiment of the people among whom it is to be executed. He cites recent instances to show that the Fugitive Slave Law could not be enforced.

16. He eulogizes this spirit of opposition to slavery, and vindicates it by classical and historical illustrations.

17. "But I am asked what I offer as a substitute for the legislation which I denounce?" In the omission Sumner speaks in answer to this question. He pronounces the fugitive slave clause purely a compact. "*Each State in the exercise of its own judgment, will determine for itself the precise extent of the obligations assumed.*" Sumner conceded that the States were prohibited from discharging a fugitive from service, but he held that the State was entitled to determine the mode by which he was to be "delivered up." This should be done only after carefully guarding personal liberty,—the fugitive must be surrounded with "every shield of Law and Con-

stitution." In any event, the proceeding should be by "suit at common law," including the rights of *habeas corpus* and Trial by Jury. See Phillip's interpretation of this, p. 255.

18. Compare this with Seward's assertion of "the higher law."

19. He quotes from the fathers of the Church to the effect that unjust and unrighteous laws are not binding,—a principle not confined to the Church. Cicero sustained the same view, that an unjust law is null. "The conscience of each person is the final arbiter," says Sumner.

20. Sumner spoke for three hours and three quarters. At the conclusion of his speech a debate ensued engaged in by many Senators, Northern and Southern. Mr. Clemens, of Alabama, Mr. Badger, of North Carolina, and Mr. Weller, of California, especially attacked Sumner. Badger quoted extensively from Sumner's Faneuil Hall Speech of November, 1850,* charging Sumner with responsibility for lawless sedition. He was vigorously arraigned by other Senators, many of the attacks dealing in personalities. Senators Hale and Chase spoke in his defence. Chase said:

"The argument which my friend from Massachusetts has addressed to us to-day was not an assault upon the Constitution. It was a noble vindication of that great charter of government from the perversions of the advocates of the Fugitive Slave Act. . . . What has the Senator from Massachusetts asserted? That the fugitive servant clause of the Constitution is a clause of compact between the States, and confers no legislative power upon Congress. He has arrayed history and reason in support of this proposition; and I avow my conviction, now and here, that, logically and historically, his argument is impregnable, entirely impregnable. . . .

* See Sumner's *Works*, vol. ii.

"Let me add, Mr. President, that in my judgment the speech of my friend from Massachusetts will mark AN ERA in American history. It will distinguish the day when the advocates of that theory of governmental policy, and constitutional construction which he has so ably defended and so brilliantly illustrated, no longer content to stand on the defensive in the contest with Slavery, boldly attacked the very citadel of its power, in that doctrine of finality which two of the political parties of the country, through their national organizations, are endeavoring to establish as the impregnable defence of its usurpations."

The amendment of Sumner was rejected by a vote of 47 to 4. Chase, Wade, Hale, and Sumner were the only ones voting in its favor. See Sumner's *Works*, vol. iii.; *Congressional Globe*, May–August, 1852.

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